United Nations S/2003/261

Security Council

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7 March 2003

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 November 2002 (S/2002/1286).

The Counter-Terrorism Committee has received the attached third report from the Czech Republic submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27305 (E) 140303

Annex

Letter dated 17 February 2003 from the Permanent Representative of the Czech Republic to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In reply to your letter from 15 November 2002 I would like to submit the "Reaction of the Czech Republic to the second set of supplementary questions of CTC". Being aware of the importance and urgence that a comprehensive issue such as fight against terrorism represents I would like to draw your attention to a few comments to the "Reaction of the Czech Republic to the second set of supplementary questions of CTC".

The Czech Republic welcomed the enhanced cooperation with CTC and has been carefully following the outcome of its work. The Czech Republic has been also thoroughly monitoring and analysing all the recommendation and initiatives CTC had provided in respect to the implementation of resolution 1373 (2001).

The Czech Republic is currently in the process of principally amending one of the main acts — Criminal Code. I would like to assure you the Czech Republic has carefully considered its international commitments as well as the suggestions and recommendations of the European Union and CTC during the drafting process. The draft Act is due to be submitted to the Government on 30 June 2003 therefore at the moment the Czech Republic was unable to competently respond to all the relevant questions of CTC. As the complexity of the issue is evident, the Czech Republic is expecting to provide CTC with an addendum to the current "Reaction of the Czech Republic to the second set of supplementary questions of CTC" in the time period following the government approval of the amendment of the Criminal Code.

(*Signed*) Hynek **Kmoníček**
Ambassador
Permanent Representative

Enclosure

Reaction of the Czech Republic to the second set of supplementary questions of CTC

1.2. Is the intention of the Czech Republic to directly criminalise all the acts specified in sub-paragraphs 1 (b) and (d)?

Preparations for re-enactment of the Criminal Code are currently under way. The Ministry of Justice, in consultation with other ministries represented on the interministerial working commission, are working on an articulated bill that should be presented to the Government for approval on 30 June 2003. Since the text is in the stage of working drafts, no authoritative information can be provided on the criminalization of these acts.

For operative criminal legislation covering the acts, see Annex 1.

1.3. The CTC would appreciate receiving an outline of the proposed amendments to the provisions relating to freezing of funds. Will the amendments provide authority to freeze all funds, financial assets and connected with terrorism, regardless of whether the funds are actually used for a terrorist act?

If the expression "person connected with terrorism" means a person whose connection with terrorism is based on a particular crime included in the Criminal Code, the freezing of funds and assets is possible even if they have not yet been actually used for terrorist purposes. The task of the Czech Republic Police is to detect and temporarily take control of such funds pending a court order on their further disposal.

The anticipated amendment to Act No. 61/1996 (expected to enter into force in June 2003) will broaden the powers of the Financial Analysis Department at the Czech Ministry of Finance ("FAD", created by Act No. 61/1996 to combat the laundering of proceeds of crime) to include the fight against terrorism. In addition to their duty to report suspected money laundering transactions, banks and similar institutions will be newly required to report to the FAD any suspicious transactions potentially connected with the financing of terrorism. The operative legislation allows the FAD to suspend the client's draft (in effect to freeze the transferred funds) for a period not exceeding 72 hours. Within this period the FAD examines the transaction and decides whether there are grounds for reporting a crime. Action is thus taken promptly, without undue delay. If the results of the examination are positive, the period is extended by three days during which the law enforcement authorities assume control of the funds. If no crime is reported, the funds are unblocked upon the expiry of the initial 72-hour period.

For particulars on the legislation concerning the freezing of funds, see Annex 2.

1.4. The CTC would be grateful for an outline and explanation of the provisions of Act No. 61/1988 Col. That prevent the diversion of explosives to purposes other than those prescribed by law and, in particular, to terrorist groups.

Section 22 of Act No. 61/1988 on mining activities, explosives and the state administration of the mining industry, lays down general obligations concerning the

management of explosives. These standard legislative measures provide, in particular, that every business entity engaged in mining activities has the no-fault liability for securing explosives against theft, in order to prevent their use in terrorist attacks.

The business entity must report on measures taken to secure the explosives to the Czech Mining Authority and to the territorial department of the Czech Republic Police.

It is worth noting that the crime of "unauthorized possession of weapons" under Section 183, para 2 of the Criminal Code includes also unauthorized possession of explosives. In this case the term "explosive" covers substances and devices defined in Section 21, para 1 of Act No. 61/1988 on mining activities, explosives and state administration of the mining industry.

1.5. Effective implementation of sub-paragraphs 2 (d) and (e) of the Resolution requires a State to criminalise the use of its territory for the purpose of committing terrorist acts against other States or their citizens or for the purpose of financing, planning and facilitating of terrorist acts against other States or their citizens, even though no related terrorist acts have actually been committed or attempted. The current provisions in Czech law as explained in the reports do not seem to adequately meet this requirement. Will the new Criminal Code deal comprehensively with this issue?

Preparation of crimes is established as a criminal offence, including preparation of crimes committed against another State or planned to be committed in its territory. The Criminal Code contains sanctions against organizing, aiding and abetting the commission of crimes, including the provision of means (Section 10 of the Criminal Code), against participation in a conspiracy, including support for a conspiracy (Section 163 of the Criminal Code), incitement to crimes (Section 164 of the Criminal Code), etc. Attempts or even preparation to commit crimes are also established as a criminal offence.

1.6. Paragraph 3 calls upon Member States to become parties as soon as possible to all 12 international conventions and protocols relating to terrorism. The CTC would therefore welcome a report on the outcome of the evaluation concerning the Czech Republic becoming a party to the two conventions to which it is yet to become a party.

The Czech Republic's possible accession to the Convention for the Suppression of Illegal Acts against the Safety of Marine Navigation and the Protocol for the Suppression of Illegal Acts against the Safety of Fixed Platforms Located on the Continental Shelf has been thoroughly considered with respect to the recommendation and suggestions of the CTC. Implementation of the two instruments will require certain changes to the Criminal Code. These changes are part of the re-enactment package and will probably be reflected in the new clauses establishing the criminal liability of legal persons.

Annex 1

Re paragraph 1.2

It is important to note that terrorist acts can be prosecuted in the Czech Republic on the basis of the criminal offences already established in the operative criminal legislation. These offences include terror (Section 93 - intentional killing, or attempt to kill, with the aim to undermine the constituted governmental authority, Section 93a of the Criminal Code - taking hostages with the aim to compel others to fulfil demands that undermine the constituted governmental authority), sabotage (Sections 95 and 96 of the Criminal Code), jeopardizing the security of aircraft and non-military vessels (Section 18 of the Criminal Code), murder (Section 219 of the Criminal Code), taking hostages (Section 234a of the Criminal Code), etc.

The classification would depend on the circumstances and facts of the case, especially on the intentions of the perpetrators and those who e.g. provided or collected funds with the knowledge that the funds will be or would be used for terrorist purposes. In this case the offender may be charged with "participation in an offence by organizing, counselling or aiding and abetting" (Section 10 of the Criminal Code), preparation of a crime (Section 7 of the Criminal Code) or, if he acted in closer association with the principal perpetrators, with complicity (Section 9, para 2 of the Criminal Code).

The act of attempting, participating in or preparing for any crime covered by the Criminal Code is established as a criminal offence.

It is important that perpetrators and their accomplices are equally liable for punishment and that attempted crimes and, in principle, preparation for a crime carry the same sanctions as completed crimes.

Membership in an organized criminal group (Section 34g of the Criminal Code) is an especially aggravating factor in all cases, including completed, prepared or attempted crimes and participation in a crime.

The provisions on criminal conspiracy as defined in Section 89, para 17 of the Criminal Code are applied if there is a provable connection between the source of funds and a terrorist group. The participants covered by Section 163 of the Criminal Code are charged with "crimes committed for the benefit of a criminal conspiracy", subject to the conditions laid down in Sections 43 and 44 of the Criminal Code.

The act of legalizing the proceeds of organized crime was established as a criminal offence by Act No. 143/2002 amending the Criminal Code, effective from 1 July 2002 (Section 252, para a). The provision is specifically directed against money laundering as an activity closely connected with organized crime and terrorism.

Collection of money to reward or support perpetrators of terrorist attacks constitutes the crime of "advocating criminal activities" under Section 165, para 2 of the Criminal Code, as long as the act of collecting money is clearly separate from the terrorist act. A collection directly connected with a terrorist act would constitute participation in or preparation of a crime or complicity under the provisions mentioned above.

Annex 2

Legislation regulating the freezing of funds

The freezing of funds on the basis of international commitments is regulated by Act No. 48/2000 on measures concerning the Afghan Taliban movement and Act No. 98/2000 on the implementation of international sanctions for the purposes of preserving international peace and security. The freezing of funds can be ordered either in the course of the criminal procedure or as a separate measure (see 1.3. above).

The freezing of funds in the course of the criminal procedure is regulated by Sections 79a, 79b and 79c of the Code of Criminal Procedure. If there are reasonable grounds for believing that funds deposited in a bank account are intended to be used or have been used for criminal purposes, or that they are proceeds of crime, the presiding judge or the prosecuting attorney (in pre-trial proceedings) may take control of them. Section 79 of the Code of Criminal Procedure provides that the legal grounds for freezing bank accounts apply also to accounts kept by savings banks, credit cooperatives or similar institutions, state-subsidized pension insurance accounts, credits or income from leases. The procedures for ordering, terminating and limiting the measure are set forth in Section 79a. The freezing of book-entry securities is regulated by Section 79c of the Code of Criminal Procedure: if the presiding judge or the prosecuting attorney (in pre-trial proceedings) orders the freezing of book-entry securities, the Securities Centre, the legal entity authorized by a special law to keep part of the records and to perform other functions of the Securities Centre, or the Czech National Bank shall open for the owner a special account where the securities are deposited. In urgent cases the freezing of book-entry securities may be ordered by the police. However, the police order must be communicated within 48 hours to the prosecuting attorney who may either approve or cancel it. Any transactions involving these securities are forbidden with effect from the delivery of the order.

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 November 2002 (S/2002/1282).

The Counter-Terrorism Committee has received the attached third report from Barbados submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27290 (E) 110303

Annex

Letter dated 14 February 2003 from the Permanent Representative of Barbados to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On behalf of the Government of Barbados, I am pleased to forward the additional information that was requested by the Counter-Terrorism Committee in its letter of 15 November 2002 (see enclosure).

The Government of Barbados remains ready to provide any further information as deemed appropriate.

(*Signed*) June **Clarke**
Permanent Representative

Enclosure

Supplementary information provided by the Government of Barbados in response to the request of 15 November 2002 made by the Counter-Terrorism Committee (CTC)

Introduction

In keeping with its obligations with regard to the mandate contained in paragraph 6 of Security Council resolution 1373 (2001), the Government of Barbados submitted a comprehensive report on 24 December 2001. A supplementary report providing further clarification and additional information on a number of issues contained in the first report was submitted on 28 June 2002, as requested by the Counter-Terrorism Committee in its letter of 1 April 2002. The present submission constitutes the third response of the Government of Barbados to CTC and is confined to answering the specific questions raised by the Committee in its letter of 15 November 2002.

Request made by the Committee

1.2 Subparagraph 2 (a) of the resolution, inter alia, requires all States to suppress recruitment of members of terrorist groups. The first report from Barbados states that the Foreign Incursions and Mercenaries Act serves to prohibit the recruitment of mercenaries in Barbados. Could Barbados please explain whether recruitment of all persons, not only mercenaries, to terrorist groups is covered by this law and whether all terrorist activities come within the ambit of sections 5 to 7 of that Act. If not, how does Barbados intend to meet the requirement of subparagraph 2 (a)?

Response by the Government of Barbados

The Foreign Incursion and Mercenaries Act (Cap. 174) deals only with mercenaries and activities connected to mercenaries. Accordingly, an amendment will be made to the Anti-Terrorism Act in the very near future to meet the requirements of subparagraph 2 (a) fully.

Request made by the Committee

1.3 For effective implementation of subparagraphs 2 (d) and (e) of the resolution, a State must criminalize the use of its territory for the purpose of financing, planning and facilitating of terrorist acts against other States or their citizens even though no related terrorist acts have actually been committed or attempted. The CTC analysis suggests that current legal provisions do not meet this requirement entirely. If this analysis is correct, please comment on how Barbados intends to deal with this requirement.

Response by the Government of Barbados

The Barbados Government confirms that section 4 of the Anti-Terrorism Act, 2002-2006 covers entirely the requirements of subparagraphs 2 (d) and (e) that a State must criminalize the use of its territory for the purpose of financing, planning and facilitating of terrorists acts against other States or their citizens even though no related terrorist acts have actually been committed.

Request made by the Committee

1.4 Paragraph 3 of the resolution calls upon all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism. CTC would be grateful to receive a report on the progress made by Barbados in becoming a party to those conventions and protocols to which it is not yet a party.

Response by the Government of Barbados

Since the submission of its supplementary report on 28 June 2002, the Government of Barbados has taken the following action with regard to the suppression of terrorism by becoming a party to the following:

- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988). Barbados acceded on 12 October 2002
- International Convention for the Suppression of the Financing of Terrorism (1999). Barbados ratified on 18 September 2002
- Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991). Barbados acceded on 11 November 2002
- International Convention for the Suppression of Terrorist Bombings (1991). Barbados acceded on 18 September 2002.

The Government of Barbados is also party to the following:

- Convention on Offences and Certain Acts Committed on Board Aircraft (1963). Ratified in 1972, this has been incorporated into the Hijacking Act, Cap. 135 A
- Convention for the Suppression of Unlawful Seizure of Aircraft (1970). Ratified in 1973 and incorporated into the Hijacking Act, Cap. 1[illegible] A
- Convention for the Suppression of Unlawful Acts against the [illegible]y of Civil Aviation (1971). Ratified in 1976 and incorporated into the Civil Aviation (Montreal Convention) Act, Cap. 123 A
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973). Barbados acceded in 1979 and this has been incorporated into the Internationally Protected Persons Act, Cap. 123 A
- International Convention against the Taking of Hostages (1979). Barbados acceded in 1981

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988). Barbados acceded in 1994 and this has been incorporated into the Shipping Act, Cap. 296
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988). Barbados acceded in 1994.

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 November 2002 (S/2002/1285).

The Counter-Terrorism Committee has received the attached third report from Cyprus submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27299 (E) 110303

Annex

Letter dated 14 February 2003 from the Deputy Permanent Representative of Cyprus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to the letter dated 7 October 2002 conveying further comments by the Counter-Terrorism Committee on the report of the Government of Cyprus submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001), I have the pleasure to enclose the response of the Government of Cyprus to those comments (see enclosed supplementary report).

(*Signed*) George **Kasoulides**
Deputy Permanent Representative

Enclosure

Supplementary report of the Republic of Cyprus to the Counter-Terrorism Committee (CTC) established pursuant to resolution 1373 (2001) concerning counter-terrorism, in reply to the letter dated 15 November 2002

1. Implementation measures

1.2. Effective implementation of paragraph 1 of the Resolution requires enactment of specific provisions relating to a monitoring mechanism that ensures that funds and other economic resources collected by non-profit organizations (e.g. religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for financing of terrorism. Please comment on what action Cyprus proposes to take in this regard.

As mentioned in the previous Supplementary Report of Cyprus, very few and well known charitable associations exist in Cyprus.

It should be noted that in order to establish such entities in Cyprus, they should be registered and licensed according to the provisions of the "Charities Law, Cap. 41" and the "Societies and Institutions Law, No. 57/72".

The use of the funds and other economic resources collected by such non-profitable organizations solely for the stated purposes, is safeguarded through the provisions of the aforementioned laws.

Of outmost importance are the provisions concerning the obligation to keep accounts, which should be audited. Failure to keep such accounts is a reason for the cancellation of the license.

As an example of such a provision is the following section of the "Charities Law, Cap. 41":

"10. The trustees of any charity incorporated under the provisions of this Law shall in books to be kept by them for that purpose regularly entered full and true accounts of all moneys received and paid respectively on account of such charity, and shall also at the end of every year prepare and transmit to the Administrative Secretary the following accounts: -

(a) an account of the gross income arising or which ought to have arisen for the benefit of the charity during the year ending on the 31st day of December then last;

(b) an account of all balances in hand at the commencement of every year, and of all moneys received during the same year, on account of the charity;

(c) an account for the same period of all payments;

(d) an account of all moneys owing to or from the charity so far as conveniently may be,

which accounts shall be certified under the hand of one or more of the said trustees."

Similar provisions are contained in the "Societies and Institutions Law, No. 57/72".

Furthermore, the preventive measures applied in the financial sector, in relation to the anti-money laundering measures and the measures against the financing of terrorism are applied when such entities conduct financial transactions through the Banking Institutions in Cyprus.

1.3. Effective implementation of sub-paragraphs 2 (d) and (e), requires a State to criminalize the use of its territory for the purpose of financing, planning and facilitation of terrorist acts against other States or their citizens, even if no related terrorist act has actually been committed or attempted. From the report

it is not clear whether the legal provisions in Cyprus meet this requirement entirely. Please comment on how Cyprus is able to comply with that requirement.

The Financing of terrorist acts is clearly a criminal offence in Cyprus, with the Ratification Law of the U.N. Convention for the Suppression of the Financing of Terrorism, and specifically, with the following section, titled "Offences and penalties":

"4 (1) The offences referred to in article 2 of the Convention are punishable by imprisonment up to fifteen years or with a fine of one million Cyprus pounds or both such imprisonment and fine."

Concerning the "planning and facilitating of terrorist acts against other States or their citizens, even if no related terrorist act has actually been committed or attempted", the provisions of certain sections of the Criminal Code are applied, such as the section on "conspiracy" which states as follows:

"372. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the would which if done in the Republic would be a misdemeanour, and which is an offence under the laws in force in the place where it is purposed to be done, is guilty of a misdemeanour."

1.4. Please provide a progress report on the steps taken by Cyprus in regard to becoming a party to the Convention on the Marking of Plastic Explosives.

On 21.6.2002 the Convention on the Marking of Plastic Explosives was ratified by Law 19(III)/2002. The relevant Instrument of Accession was deposited on the 20.9.2002 making thus Cyprus party to all 12 International Conventions related to terrorism.

2. *Assistance and guidance*

2.1. Cyprus, within the framework of its commitment to fight and most importantly to co-operate with other countries against terrorism, is willing to organize Regional Conferences or Seminars addressing this issue, using the experts of the Cypriot Authorities in this area.

Furthermore, Cypriot experts are willing to participate as lecturers in Conferences in other countries for the same purpose.

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/393).

The Counter-Terrorism Committee has received the attached third report from the United Kingdom of Great Britain and Northern Ireland submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27825 (E) 180303

Annex to the letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

Letter dated 14 February 2003 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Annexed to the present letter is the further report of the United Kingdom of Great Britain and Northern Ireland submitted in response to the letter from the Chairman of the Counter-Terrorism Committee of 15 November 2002 (see enclosure).

The United Kingdom stands ready to submit any further information requested by the Counter-Terrorism Committee on the United Kingdom's implementation of resolution 1373 (2001).

(*Signed*) Jeremy **Greenstock**

Enclosure

Third report of the United Kingdom of Great Britain and Northern Ireland to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

Sub-paragraph 1.2

- **Please provide a report on the progress made in enacting the legislation on extradition referred to in the first report in relation to sub-paragraph 3 (g).**

The Extradition Bill was introduced into the Houses of Parliament on the 14th November 2002. The Extradition Bill should implement the fast track system of surrender between fellow EU Member States (the Council Framework Decision on the European arrest warrant and the surrender procedures between Member States 2002/584/JHA) and streamline the extradition procedure for all its other extradition partners. It will be considered by both Houses of Parliament in the normal way.

The Extradition Bill proposes to remove the political offence exception completely from UK extradition law, in line with our commitments under UN Security Council Resolution 1373.

Sub-paragraph 2.3

- **The CTC would be grateful to be kept informed of any bilateral or multilateral (assistance) arrangements and their outcome, as well as any changes to the offer of assistance.**

Over the past twelve months the UK has delivered counter-terrorism assistance to a significant number of countries around the world to improve their capabilities to deter, detain or disrupt terrorist groups in support of full implementation of United Nations Security Council Resolution 1373. This has been part of a broad programme of counter terrorism-related assistance, worth some £1.5m.

The programme has included training in operational counter-terrorism policing methods, crisis management, the drafting of counter-terrorism legislation, the countering of terrorist financing, aviation security, and bomb disposal skills in countries from South and South East Asia, the Middle East and Africa. The United Kingdom hopes to continue this programme in the coming Financial Year and to expand it to include other areas such as charity regulatory mechanisms and law enforcement on terrorist financing.

The latest version of the UK's own Assistance Matrix is attached.

UK COUNTER TERRORISM ASSISTANCE PROGRAMME – 13 February 2003

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STATE	CATEGORIES	UK COUNTER TERRORISM ASSISTANCE
Angola	**Police and law enforcement work:** **Other:**	1. Assessment visit by UK Counter Terrorism Crisis Management expert (2002) 2. Regional aviation security training course (2003)
Antigua and Barbuda	**Counter-terrorism Legislation:** **Other:**	1. Counter terrorism legislative and administrative measures assistance (2003) 2. Regional aviation security training course (2001)
Bahamas	**Counter-terrorism Legislation:** **Other:**	1. Counter terrorism legislative and administrative measures assistance (2003) 2. Regional aviation security training course (2001)
Bahrain	**Financial law and practice:**	1. Combating Terrorist Financing assistance (2003)
Bangladesh	**Counter-terrorism legislation:** **Financial law and practice:**	1. Counter-terrorism legislative and administrative assistance (2003) 2. Combating terrorist financing assistance (2003)
Barbados	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)
Belize	**Counter-terrorism legislation** **Other:**	1. Counter-terrorism legislative and administrative assistance (2003) 2. Regional aviation security training course (2001)
Botswana	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2002)
Cameroon	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)
Dominican Republic	**Counter-terrorism Legislation:**	1. Combating terrorist financing assistance (2003)
Ethiopia	**Other:**	1. Regional aviation security training course (2003)

UK COUNTER TERRORISM ASSISTANCE PROGRAMME – 13 February 2003

Fiji	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)
Gambia	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Ghana	**Counter-terrorism legislation**	1. Counter-terrorism legislative and administrative assistance (2003)
Greece	**Other:**	1. Counter-terrorism contingency, planning, training, exercising and response (including police skills) (2002/03/04)
Grenada	**Counter-terrorism legislation:** **Other:**	1. Counter-terrorism legislative and administrative assistance (2003) 2. Regional aviation security training course (2001)
Grenadines	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Guyana	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
India	**Counter-terrorism legislation:** **Police and Law enforcement work:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Terrorist crime scene management (2002) 3. Explosive forensics (2003) 4. CT Policing skills (2003) 5. Regional aviation security training course (2002) 6. Counter Terrorist Crisis Management training (2003)
Indonesia	**Counter-terrorism Legislation:** **Financial law and practice:** **Police and law enforcement:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Combating terrorist financing assistance (2003) 3. CT policing skills (2003) 4. Regional aviation security training course (2003) 5. Counter Terrorist Crisis Management training (2003)
Jamaica	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)

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UK COUNTER TERRORISM ASSISTANCE PROGRAMME – 13 February 2003

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Jordan	**Police and law enforcement work:**	1. Assessment visit by UK Counter Terrorist Crisis Management expert (2003)
Kazakhstan	**Other:**	1. Regional aviation security training course (2002)
Kenya	**Counter-terrorism Legislation:** **Other:**	1. Counter terrorism legislative and administrative assistance (2002) 2. Regional aviation security training course (2003)
Kiribati	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)
Kuwait	**Financial law and practice:**	1. Combating terrorist financing assistance (2003)
Lesotho	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2002)
Malawi	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2002)
Malaysia	**Counter-terrorism Legislation:** **Police and law enforcement work:** **Financial law and practice:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. CT policing skills (2003) 3. Combating terrorist financing assistance (2003) 4. Regional aviation security training course (2003)
Maldives	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Mozambique	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2002)
Namibia	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)
Nauru	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)
Nepal	**Counter-terrorism Legislation:** **Police and law enforcement work:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Assessment visit by UK Counter Terrorist Crisis Management expert (2002) 3. Regional aviation security training course (2002)

UK COUNTER TERRORISM ASSISTANCE PROGRAMME – 13 February 2003

Nigeria	**Counter-terrorism legislation:** **Police and law enforcement work:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Assessment visit by UK Counter Terrorist Crisis Management expert (2002)
Oman	**Financial law and practice:**	1. Combating terrorist financing assistance (2003)
Pakistan	**Financial law and practice:** **Police and law enforcement:** **Other:**	1. Combating terrorist financing assistance (2003) 1. Assessment visit by UK Counter Terrorist Crisis Management expert (2003) 2. Regional aviation security training course (2002)
Panama	**Other:**	1. Regional aviation security training course (2001)
Papua New Guinea	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Philippines	**Counter-terrorism Legislation:** **Financial law and practice:** **Police and law enforcement work:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Combating terrorist financing assistance (2003) 3. CT policing skills, including hostage negotiation (2002/03) 4. Counter Terrorist Crisis Management training (2002) 5. Regional aviation security training course (2003)
Qatar	**Financial law and practice:**	1. Combating terrorist financing assistance (2003)
Samoa	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Saudi Arabia	**Financial law and practice:**	1. Combating terrorist financing assistance (2003)
[redacted]	**Counter-terrorism legislation:** **Other:**	1. Counter-terrorism legislative and administrative assistance (2003) 2. Regional aviation security training course (2001)
[redacted]	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2003)

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UK COUNTER TERRORISM ASSISTANCE PROGRAMME – 13 February 2003

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Sierra Leone	**Counter-terrorism legislation:** **Police and law enforcement work:**	1. Counter-terrorism legislative and administrative assistance (2003) 2. Assessment visit by UK Counter Terrorist Crisis Management expert (2002)
Singapore	**Financial law and practice:** **Other:**	1. Combating terrorist financing assistance (2003) 2. Regional aviation security course (2003)
Solomon Islands	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Sri Lanka	**Counter-terrorism legislation:** **Police and law enforcement:** **Other:**	1. Counter-terrorism legislative and administrative assistance (2003) 2. Improvised Explosive Device Disposal training (2002) 3. Regional aviation security training course (2002)
Saint Vincent	**Counter-terrorism Legislation:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Regional aviation security training course (2001)
Sudan	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2002)
Swaziland	**Counter-terrorism legislation:**	1. Counter-terrorism legislative and administrative assistance (2002)
Thailand	**Counter-terrorism legislation:** **Financial law and practice:** **Other:**	1. Counter terrorism legislative and administrative assistance (2003) 2. Combating terrorist financing assistance (2003) 3. Regional aviation security training course (2003)
Tonga	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)

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Trinidad and Tobago	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Turkmenistan	**Other:**	1. Regional aviation security training course (2002)
Tuvalu	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Uganda	**Counter-terrorism Legislation:** **Other:**	1. Counter terrorism legislative and administrative assistance (2002) 2. Regional aviation security training course (2003)
United Arab Emirates	**Financial law and practice:**	1. Combating terrorist financing assistance (2003)
United Republic of Tanzania	**Counter-terrorism legislation:** **Other:**	1. Counter terrorism legislative and administrative assistance (2002) 2. Regional aviation security training course (2003)
Vanuatu	**Counter-terrorism Legislation:**	1. Counter terrorism legislative and administrative assistance (2003)
Venezuela	**Other:**	1. Regional aviation security training course (2001)
Yemen	**Police and law enforcement work:**	1. CT policing skills (2002)
Zambia	**Counter-terrorism legislation:**	1. Counter terrorism legislative and administrative assistance (2002)

S/2003/264

United Nations S/2003/265

Security Council

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 13 November 2002 (S/2002/1255).

The Counter-Terrorism Committee has received the attached third report from Norway submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-27952 (E) 200303

Annex

Letter dated 12 February 2003 from the Permanent Representative of Norway to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour of enclosing a further report with information on the questions and comments raised by the Counter-Terrorism Committee in its letter dated 30 October 2002 (see enclosure).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

(*Signed*) Ole Peter **Kolby**
Ambassador
Permanent Representative

Enclosure

Further report of Norway to the Counter-Terrorism Committee in reply to the letter dated 30 October 2002

Introduction

Reference is made to the second Norwegian report, subparagraph 3 (g), in which we expressed that we considered withdrawing our reservation to the 1977 European Convention on the Suppression of Terrorism. Norway has now withdrawn the reservation.

Subparagraph 1.2

Norway agrees that an obligation to report suspicious financial transactions contributes to an effective implementation of paragraph 1 of the resolution.

The Act of 10 June 1988 No. 40 on Financing Activity and Financial Institutions, section 2-17, establishes an obligation to report such transactions to the proper authorities (a copy of the section is enclosed). Paragraph 3 states that if a financial institution suspects that a transaction is linked to the proceeds of any criminal offence which can entail a higher penalty than imprisonment for six months (including the Penal Code section 147 a and 147 b), it is obliged to carry out further enquiries to confirm or refute its suspicion. Furthermore, paragraph 4 states that should there be any suspicion of a contravention that is not refuted through enquiries pursuant to the third paragraph, the financial institution is obliged, on its own initiative, to forward information on all circumstances that may point towards such a contravention to the National Authority for Investigation and Prosecution of Economic and Environmental Crime, ØKOKRIM. The financial institution and its employees are obliged at the request of ØKOKRIM to provide ØKOKRIM with all the necessary information concerning the possible contravention.

According to section 1-3, these obligations apply to, with some minor exceptions, financial institutions, in other words companies, undertakings or other institutions, which carry on financing activity. Furthermore, section 2-1 states that a company or other institution that is the parent company in a financial group or the parent company in part of such group is also regarded as a financial institution. In addition to financial institutions, the provisions of section 2-17 apply to:

- Norges Bank (the Central Bank of Norway);
- The Government Postal Enterprise (Norway Post) when it performs services for a financial institution;
- Management companies pursuant to the Securities Funds Act (No. 52 of 12 June 1981);
- The following types of broking undertakings:
  - (a) investment firms pursuant to the Securities Trading Act;
  - (b) insurance broking undertakings;
  - (c) project broking undertakings;

(d) currency broking undertakings;

• and some other institutions.

Any person who wilfully contravenes these obligations shall be liable to fines or imprisonment not exceeding one year, according to section 5-1. Accomplices shall be liable to the same penalty.

In order to strengthen and expand the obligation to report suspicious transactions, the Norwegian Ministry of Finance set up a working-group to propose new pieces of legislation. The working-group has finished its deliberations, and proposes that auditors, external accountants, tax advisors and real estate agents shall be bound by similar obligation as mentioned in the Act of 10 June 1988 No. 40 on Financing Activity and Financial Institutions, sections 2-17. Furthermore, these obligations shall also apply for attorneys and other independent legal professionals when they assist in the planning or execution of transactions for their client concerning a number of scenarios, and when they are acting on behalf of and for their client in any financial or real estate transaction.

Any person who contravenes these provisions shall, according to section 13 of the proposal, be liable to fines or imprisonment for a term not exceeding one year. Accomplices shall be liable to the same penalty.

The proposal has been distributed for comments, and the Ministry of Finance is planning to submit a proposal, based on the proposal by the working-group, to the Parliament (Stortinget) by spring 2003. If the Parliament then passes the bill, it will probably enter into force during the summer.

Subparagraph 1.3

The procedure that leads to the freezing of terrorist funds upon request from a foreign state has been set out in the Act of 13 June 1975 No. 39 relating to Extradition of Offenders etc., Chapter V, and in the amendments to the Criminal Procedure Act Chapter 15 b.

According to section 24, paragraph 2, of the Act relating to Extradition of Offenders etc., the request shall be submitted to the Norwegian Ministry of Justice and the Police, unless otherwise stipulated in an agreement with the foreign state. The request shall contain information as to the nature, time and place of the punishable offence. It may only be complied with if it is established that a decision has been made to use measures of coercion issued in accordance with the legislation of the requesting state.

The Ministry may reject the request forthwith if it does not comply with the conditions of paragraph 2, or if it is obvious that it will be rejected. If the request is not refused under this provision, the request shall be sent to the chief or the deputy chief of the Police Security Service or to a Public Prosecutor. When the court considers whether there is legal justification for coercive measures, it shall also consider whether the conditions of this section are fulfilled.

The further procedure is set out in the new chapter 15 b of the Criminal Procedure Act, which was enclosed in the previous report.

Subparagraph 1.4

According to section 12 paragraph 3 of the Penal Code, section 147 b applies to acts committed abroad by any Norwegian national or any person domiciled in Norway. Furthermore, section 12 paragraph 4 states that section 147 b also applies abroad to acts committed by a foreigner.

Subparagraph 1.5

According to section 12 paragraph 4 of the Penal Code, section 147 a applies to an act committed abroad by a foreigner. The reference to section 147 a is not limited to a part of the section, but refers to all paragraphs in the section. Thus, section 147 a is applicable with regard to planning and preparation of a terrorist act when the act has been committed abroad by a foreigner.

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 14 August 2002 (S/2002/956).

The Counter-Terrorism Committee has received the attached supplementary report from the Islamic Republic of Iran, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27466 (E) 130303

Annex

Letter dated 19 February 2003 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Upon the instruction of my Government and with reference to your letter dated 17 April 2002, I have the honour to transmit herewith the supplementary report, and its annexes,* of the Islamic Republic of Iran on the implementation of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) M. Javad **Zarif**
Ambassador
Permanent Representative

* The annexes to the report are with the Secretariat and are available for consultation.

Enclosure

Supplementary report of the Islamic Republic of Iran to the Security Council Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Sub-Paragraphs 1 (a) and (b)

Question:
Please outline the legal provisions which prevent, suppress and criminalize the financing of terrorist acts and provide the CTC with copies thereof.

Answer:
- Combating the financing of terrorism is addressed in the collection of laws and regulations of the Islamic Republic of Iran as follows:

- Article 43 of the Islamic Penal Code stipulates that whoever encourages, incites, threatens or entices (including financing terrorism) another party to commit a crime or facilitate it, whether the action of each of them is adequate for committing the crime or not and whether the effects of their action are equal or not, he/she shall be considered as an accomplice and shall receive the same punishment as the independent perpetrator of the crime. (See annex 1)

- Under Article 610 of the Islamic Penal Code in the case where two or more people come together and collude to act against the internal and external security of the country or acquire means to carry such acts out, they shall be punishable by 2 to 5 years of imprisonment provided that they are not indicted as enemy combatant.

- The draft Anti-Terrorism Act, which is under final considerations in the cabinet of ministers and will be shortly submitted to the Parliament, criminalizes the financing of terrorism and lays down provisions to suppress it.

- The Central Bank of the Islamic Republic of Iran, in implementing the decision made by the Commission of the Government's Economic Headquarters, dated 12 Nov. 2001, and that of the Iranian National Security Supreme Council on combating the financing of terrorism, issued Circular No. 3455 to all banks and non-banking credit institutions under its supervision requiring them to report any account(s), either in local or a foreign currency, belonging to Al-Qaida operatives and/or entities.

- In addition, the bill against money laundering, which is going through its final phases in the Parliament, will play an effective role in strengthening legislative dimension of the campaign against financing terrorism.

- Article 42 of the National Banking and Monetary Act, passed in 1972, has banned any transaction in local currency or foreign exchange without observing the Central Bank's regulations. Upon the request of the Central Bank, the Attorney General may issue an order

closing temporarily the violating institution. In case of the Central Bank's complaint, pertinent courts may sentence the institution to provisional or permanent closure.(See annex 2)

- With a view to suppressing any misuse and impropriety in the monetary and banking operations, the Council on Money and Credit has laid down the regulations that aim at thwarting money laundering. The said regulations have been circulated to monetary and banking authorities across the country through Circular no. 3513 dated 13 November 2002.

Question:
Does the Islamic Republic of Iran have any provision for regulating informal banking networks (e.g. Hawalah)? Please outline such provisions.

Answer:
- Yes. By the virtue of the Banking and Monetary Act, the Central Bank is responsible for supervising banking and monetary operations in the country. Article 30 of the Act stipulates that the establishment of bank and carrying out banking operations or using the word "bank" in the title of credit institutions are permissible only within the provisions envisaged in the Banking and Monetary Act.

- Money transfer (*Hawalah*) in the banking system is carried out on the basis of the relevant regulations. Moreover, particulars of sender and recipient of a money order and subject of transaction should be on the record and legal as well. Any sort of money transfer out of the banking system is illegal.

- The Islamic interest-free funds constitute the most important non-banking monetary operation network. Activities of these funds, which provide applicants with limited interest-free emergency loans, are regulated by the Islamic Interest-Free Funds Act of 1980. Article 2 of the Act has obligated the funds to operate within the Central Bank's rules and regulations. Article 13 of the Act stipulates that Funds are duty-bond to produce their annual statements and submit, if requested, a copy to the Central Bank for inspection. According to Article 16 of the Act, the Central Bank may nullify the licenses of violating funds. To obtain license it is mandatory for all non-banking financial institutions, including the Islamic interest-free funds and charity organizations, to submit their statutes to the national competent financial authorities. Beside State competent financial auditors, non-State bodies, particularly boards of trustees, monitor the operations of non-banking financial institutions.

- The forthcoming ratification by the Parliament of the bill against money laundering will also play an effective role in further subjecting non-official banking activities to the rule of law.

Question:
The CTC is looking forward to receiving a progress report regarding the money laundering legislation the Government of the Islamic Republic of Iran has presented to the Parliament.

Answer:
- The said legislation is under consideration in the Parliament's relevant specialized committee. The different aspects of this legislation are already incorporated in the

above-mentioned regulations circulated by the Council on Money and Credit and are currently being enforced by the relevant authorities in the Iranian banking system.

Sub-Paragraph 1 (c):

Question:
Could the Islamic Republic of Iran please inform the CTC on the measures taken by the Ministry of Justice and the Coordinating National Committee in order to implement sub-paragraph 1(c) of the Resolution?

Answer:
- Combating terrorism financing has been one of the major issues tackled by the National Coordination Committee (NCC), to which the Ministry of Justice is a member. It should be pointed out that the Central Bank of the Islamic Republic of Iran, as a member of the NCC, distributes regularly, based on its Circular No. 3455, issued pursuant to the decisions by the Government's Economic Commission, dated 12 November 2001 and by the National Security Supreme Council, the updated list of individuals and entities belonging to Al-Qaeda and the Taliban to monetary and banking institutions under its supervision, and has instructed them to report back if they detect any accounts, either in local or foreign currency, belonging to the listed individuals and/or entities.

- It should be pointed out that the Ministry of Foreign Affairs of the Islamic Republic of Iran distributes regularly the list containing the names of individuals and entities belonging to the Taliban and Al-Qaeda, issued by the Security Council Committee established pursuant to resolution 1267, to the members of the National Cooperation Committee and other competent authorities requesting them to take appropriate actions.

- Moreover, the Anti-Terrorism Bill and the Fighting Money-Laundering Bill envisage provisions in this respect.

Sub-Paragraph 1 (d):

Question:
Please describe how this sub-paragraph is implemented in the Islamic Republic of Iran.

Answer:
- Under Article 43 of the Islamic Penal Code, legal and real individuals, subject to this sub-paragraph, shall be considered as accomplices in committing criminal acts.

- The legislation on money laundering drafted by the Council on Money and Credit, referred to earlier, also includes specific provisions aimed at thwarting any misuse and impropriety in the monetary and banking operations.

- To counter any sort of abuses in the course of banking and monetary operations, the National Council on Money and Credit has laid down regulations to prevent money laundering. The regulations were circulated to the relevant monetary and banking authorities through Circular No.3513 of 13.11.2002.

Question:
Could you please elaborate on the preventive controls and surveillance measure which the Islamic Republic of Iran has put in place in order to ensure that funds intended for financing of terrorism are not transferred through charitable, religious or cultural organizations?

Answer:
- Please refer to the answers relating to Sub-Paragraphs 1 (a) and (b).

Sub-Paragraph 2 (a):

Question:
Please provide the CTC with additional information regarding legal, administrative and other measures in existence or proposed to be taken in order to suppress the recruitment of members of terrorist groups.

Answer:
- Under Clause 5 of Article 156 of the Constitution, legal authorities shall suppress the recruitment by terrorist groups by enforcing crime-preventing mechanisms.

- Under Article 498 of the Islamic Penal Code, whoever, holding any belief, establishes or leads a group, or its affiliates, of more than two people, inside or outside Iran, under any name or title, with the aim of perturbing the security of the country, other than those considered to be "enemy combatants", shall be subject to 2-10 years of imprisonment.

- Under Article 499 of the above-mentioned Code, anybody becomes member of those groups or their affiliates, referred to in Article 498, shall be sentenced to 3 months to 5 years of imprisonment, unless it is established that she/he has been unaware of group's objectives. In addition, recruiting to this effect constitutes a crime in the first place.

- Under Article 507 of the Islamic Penal Code, members of the groups referred to in Article 499 of this Code who cooperates with the legal authorities in identifying criminals or their criminal intentions shall receive pardons.

- Under Article 512 of the Islamic Penal Code, whoever entices or instigates people to wage war or commit murder (including directing them to perpetrate terrorist acts) with a view to perturbing the security of the State, even if the act does not lead to murder or plunder, shall be sentenced to 1-5 years of imprisonment.

- In conformity with the law of the land, the security and police forces of the Islamic Republic of Iran have adopted special security and protective measures in the western and eastern border regions to suppress activities by terrorist groups, including the recruitment of new members.

- In this connection, we categorically reject the baseless claims made against the Islamic Republic of Iran by the Iraqi government, in its second report to the CTC, contained in document no. S/2002/943 of 19 Aug. 2002, alleging that Iran has provided safe haven to the members of the Supreme Council for Islamic Revolution in Iraq, the Badr Corps and the Islamic Da'wa, whom the Iraqi regime considers to be terrorists. It should also be noted that not only the Iraqi Government expelled hundreds of thousands of Iraqis of

allegedly Iranian origin in the past three decades, but also in the course of the Iraqi imposed war on the Islamic Republic of Iran tens of thousands of Iraqis sought refuge in Iran as a result of repression as well as political, social and economic instability in Iraq. Moreover, none of the afore-mentioned groups are considered to be terrorists by the international community either.

- The above-mentioned baseless allegations are leveled despite the fact that the Iraqi government has provided, since long ago, safe haven to terrorist groups acting against the Islamic Republic of Iran, particularly the Mojahedin Khalgh Organization (MKO), which is specifically recognized by the international community as a terrorist group. This group enjoys political, financial, logistic and military support from the Iraqi government. Please refer to Articles 11 and 12 of the first national report of the Islamic Republic of Iran to the CTC, contained in document No. S/2001/1332, where more details on the presence and activities of the terrorist MKO in Iraq is provided.

- The presence and activities of the terrorist MKO in Iraq is in contravention of the international obligations of the Iraqi Government, including specifically paragraph 32 of Security Council resolution 687(1991), in which Iraq is required " to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of any such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism."

Question:
What measures does the Islamic Republic of Iran have to prevent terrorists from obtaining weapons in its territory, in particular small arms or light weapons? What is the Islamic Republic of Iran's legislation, including as regards export controls, concerning the acquisition and possession of weapons?

Answer:
- The Act, adopted on 15 February 1971, intensifying the punishment for traffickers in arms and munitions and armed traffickers regulates purchase, sale, keeping, import and export of arms, war munitions, explosives, combustibles, hunting guns and bullets and lays down punishment for violators.

- Under Paragraphs 7 and 8 of Article 4 of the Law Enforcement Force of the Islamic Republic of Iran, passed by the Parliament on 14 July 1990, the collection of arms, munitions, illegal equipment as well as the issuance of permits enabling individuals to own and carry personal arms and the supervision over authorized holding and using of flammables objects are within the purview of the law enforcement force.

- It should be noted that all trades in arms by the Islamic Republic of Iran take place exclusively with governments and, therefore, in conformity with all international laws, including UN mandated embargoes.

Question:
Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside the Islamic Republic of Iran, including, in particular:

- *The carrying out, within or from the Islamic Republic of Iran, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and*

- *Deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e. g teaching) different from the true purpose and collection of funds through front organizations.*

Answer:

- Article 4 of the Islamic Penal Code stipulates that if part of a crime takes place in Iran and its consequence occurs outside Iranian territory, or part of a crime is committed inside or outside Iran, and its consequence happens inside Iran, it shall be considered as a crime committed in Iran.

- Furthermore, Articles 498, 499, 507 and 512 of the Islamic Penal Code cover the cases referred to in the question. In this respect, Article 512 of the Islamic Penal Code stipulates that whoever entices or instigates people to wage war or commit murder (including directing them to terrorist acts) with a view to perturbing the security of the State, shall be sentenced to 1-5 years of imprisonment, no matter his/her act leads to loss of life and plunder or not.

- Law enforcement agencies and security forces are also competent to deal with these cases.

Sub-paragraph 2 (b) :

Question:
Which are the institutions responsible for providing early warning to other States in the Islamic Republic of Iran?

Answer:

- Ministries of Intelligence and Interior and law enforcement and security agencies are in cooperation with a number of countries with a view to fighting terrorism, organized crimes, trafficking in drug and arms. They have also developed mechanisms, through bilateral relations, for bilateral cooperation, including the exchange of information and the establishment of warning systems.

Sub-Paragraphs 2 (c), (d) & (f) :

Question :
Please explain the legal and institutional framework to comply with Sub-Paragraphs 2 (c), (d) & (f) of the resolution and provide the CTC with the relevant legal provisions.

Answer:

- The Act governing the entry into and residence of foreign nationals in Iran, passed on 9 May 1931 by the Iranian Parliament, and the amendments thereof restrict the entry into and residence of criminals and those involved in illegal activities in Iran.

- Under the provisions of Article 5 of an executive order on refugees, passed by the cabinet of ministers in 16 December 1966, the refuge status shall not be granted to individuals who have committed war crimes or crimes against peace or humanity or aggravated crime against public rights. Article 4 of the same executive order makes, inter alia, the grant of asylum contingent upon lack of ill intention harbored by the applicant. (See annex 3)

- Under Article 520 of the Islamic Penal Code, whoever commits an act of espionage for an foreign State against another foreign State on the territory of the Islamic Republic of Iran, which could result in damaging the national security of Iran, shall be sentenced to 1-5 years of imprisonment.(See annex 4)

- The Islamic Republic of Iran, intent on cooperating with foreign countries for combating criminal acts, has concluded mutual legal assistance agreements with a number of countries, including Russia, Azerbaijan and Syria. Moreover, Iran signed extradition agreements with Pakistan, France, Uzbekistan and Azerbaijan. Negotiations are also underway to conclude similar agreements with a number of other countries.

Sub-Paragraph 2 (e):

Question:
Please provide the CTC with an outline of the relevant legal provisions which are instrumental in implementing this sub-paragraph.

Answer:
- Under Article 183 of the Islamic Penal Code, whoever resorts to arms to wage terror and panic and perturb peace and security shall be considered as "enemy combatant".

- Those covered by this sub-paragraph are considered to be accomplices in acts of terrorism. According to Articles 42 and 43 of the Islamic Penal Law, an accomplice to a crime shall be considered to be culprit and the punishment may be the same as for the main perpetrator(s) of crime.

- Please refer also to the content of the response to question on Sub-Paragraph 2 (a) (Article 512 of the Islamic Penal Code).

Question:
Please outline provisions in the penal legislation of the Islamic Republic of Iran which criminalize all terrorist acts committed abroad by an Iranian citizen or by a person having his or her habitual residence in the Islamic Republic of Iran and which give jurisdiction to its courts over such persons?

Answer:
- Article 7 of the Islamic Penal Code stipulates that any Iranian who commits a crime outside Iran and is later arrested in Iran shall be tried according to the Penal Code of the Islamic Republic of Iran.

- Under Article 4 of the same Code, if part of a crime takes place in Iran, and its consequence occurs outside Iranian territory, or part of a crime is committed in or

outside Iran and its result happens in Iran, it will be considered as an crime committed in Iran.

- Under Article 5 of the afore-mentioned Code, any Iranian or alien who commits one of the crimes subject to this Article, including the perpetration of an act against the Islamic Republic of Iran and its internal/external security, territorial integrity and independence, and then she/he is found in or extradited to Iran, shall be put to trial in accordance with the Penal Law of the Islamic Republic of Iran. It should be pointed out that the word crime includes acts of terrorism and the like.

- Moreover, the Punishing Perpetrators of Crimes Against Foreign Countries Act, passed in 1971, stipulates that the cabinet of ministers may, on a reciprocal basis, enforce the entire or part of the law covering crimes against the national security, provided for by the penal codes, in dealing with crimes committed in Iran against other countries.

Question:
Are there provisions in the legislation of the Islamic Republic of Iran which criminalize terrorist acts committed by foreigners and give jurisdiction to the Iranian courts over such persons if and when they happen to be in the Islamic Republic of Iran?

Answer:
- Yes. In addition to Article 5 of the Islamic Penal Code, to which reference was made earlier, Article 8 of the Islamic Penal Code stipulates that crimes subject to certain laws or international agreements shall be prosecuted in accordance with laws of the country where the criminal is arrested. Therefore, if the arrest takes place in Iran, the criminal shall be prosecuted in accordance with the Iranian laws.

Sub-Paragraph 2 (g) :

Question:
Please explain how the procedures for the issuance of identity papers and travel documents support the prevention of the counterfeiting, forgery or fraudulent use of those documents and what measures exist to prevent their forgery etc.

Answer:
- Paragraph 11 of Article 4 of the Iranian Law Enforcement Force Code entrusts the enforcement of laws and regulations on passports, entry/exit and residence of foreign citizens to the Iranian Law Enforcement Force.

- Article 46 of the Public Accounts Act has entrusted printing of different types of stamps, governmental papers, passports and national ID cards to the bank-note print house of the Central Bank or the print house of another governmental bank, under supervision of a board comprising of two representatives of the Minister for Finance and Economic Affairs, representative of the Prosecutor General, representative of the Auditor General and one person representing the Islamic Consultative Assembly [the Parliament].

- Article 15 of the Foreign Nationals Entry into and Residence in Iran Act, of 9 May 1931, stipulates that the following offenders are liable to punishment:

- *Para 1:* Whoever counterfeits passport, residence permit, laissez-passer or uses forged documents knowingly or counterfeits such documents for others;

- *Para 2:* Whoever deliberately gives a false testimony or unreal information to officials at border entry points or conceals matters effective in revealing his/her identify with a view to acquiring passport or laissez-passer or uses documents produced in such a way;

- *Para 3:* Whoever deliberately crosses Iranian borders without holding the required documents or crosses restricted borders of Iran by illegal means;

- *Para 4:* Whoever uses documents of other people to prove his/her identity or nationality, and whoever makes available his/her or a third party's identification documents to falsify identity or nationality of a foreigner;

- *Para 5:* Any foreigner who hides to avoid deportation or makes an illegal entry into Iran after having been deported;

- *Para 6:* whoever participates in or being accessory to one of the above-mentioned law-breaking acts.

- Under the provisions of the afore-mentioned Act, commencing any act referred to above shall be tantamount to having completed it.

Additional relevant provisions are as follows:

- The Crimes, Offenses and Punishments for Counterfeiting Documents and National IDs Act, passed on 27 July 1991, stipulates severe punishments for counterfeiting of ID documents of any type, with whatever motivation.

- Paragraph (c) of Article 1 of the Human Trafficking Act, passed on 7 October 1988, stipulates a term of 2-4 years of imprisonment for human trafficking, especially if the trafficked person is a convict or indictee. The handling of such cases fall within the jurisdiction of the criminal court.

- Paragraph (b) of the same Article envisages 2-8 years of imprisonment and cash fine for trafficking in smugglers and those barred from entry/exit into and from Iran. Under Paragraph (a) of the Article, such trafficking may be considered as "an act of war against the Islamic State" which may receive capital punishment.

- Chapter 5 of the Islamic Penal Code (Articles 523 to 542) covers different cases and aspects of crimes in connection with document forgery and relevant punishment. Under Article 525 of the Act, counterfeiters subject to the provisions of the Act will receive 1-10 years of imprisonment and shall recompense damages.

- Article 537 of the Islamic Penal Code stipulates that duplicated copies of IDs, personal identification cards, public and governmental certificates and similar documents shall bear a sign or stamp indicating they are duplicates.

- Beside the mentioned Acts, many other regulations and rules of procedures are also being enforced by the competent authorities to monitor, control and prevent such crimes.

Question:
Please provide CTC with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border control preventing the movement of terrorists?

Answer:
- The competent national authorities and agencies who are entrusted with fighting against the afore-mentioned criminal acts have streamlined their activities and enhanced their cooperation, coordination and exchange of information through mechanisms such as the National Steering Committee, the State Security Council and the Headquarters for Combating Drug Trafficking (under the President). This coordination presently is carried out through the pertinent provincial authorities, including each province's and cities' security council. The coordination is made at a higher level of seriousness and accuracy in border provinces.

- To suppress border crossing of terrorist elements, the Islamic Republic of Iran has taken a number of measures to reinforce border control and border entry/exit points, which were partly reflected in the report of the Islamic Republic of Iran on the implementation of Security Council resolution 1390, contained in document no. S/AC.37/200/69 of 15 July, 2002.

Sub-Paragraphs 3 (a) & (b):

Question:
Apart from the High Security Commission established with Turkey, is there an institutional mechanism for implementing Sub-Paragraphs 3 (a) & (b) of the resolution?

Answer:
- The Ministry of Interior, the Ministry of Intelligence and the Ministry of Foreign Affairs exchange information on the relevant issues with other countries directly or through the Armed Forces and the law enforcement and security agencies in coordination with the National Security Supreme Council. In this connection, the Law Enforcement Force of the Islamic Republic of Iran has established close contact and cooperation with the INTERPOL.

Sub-Paragraph 3 (c) :

Question:
Has the Islamic Republic of Iran entered into bilateral agreements to prevent and suppress terrorist attacks and take action against perpetrators of such acts?

Answer:
- To suppress organized crimes, terrorism and drug trafficking, the Islamic Republic of Iran has signed cooperation agreements and memorandums of understanding with Afghanistan, Russia, Georgia, Uzbekistan, Tajikistan, Austria, Italy , Greece, Turkey, Saudi Arabia, Syria, Kazakhstan ,Pakistan, Kuwait and Azerbaijan. Negotiations and consultations are under way to conclude such documents with a number of other countries.

Question:
In particular, the CTC would be grateful to know with which countries the Islamic Republic of Iran has entered into bilateral treaties on extradition and mutual legal assistance.

Answer:
- The Islamic Republic of Iran has signed bilateral agreements on extradition and legal assistance with Russia, Pakistan, France, Azerbaijan and Syria. Negotiations are under way for concluding similar agreements with other countries.

- In addition, there is an overarching Act governing Extradition of criminals, passed on 4 June 1960, under whose article 1 even in the absence of a bilateral extradition agreement, the provisions of the Act could be enforced on a reciprocal basis.

Sub-Paragraph 3 (d) :

Question:
The CTC would welcome a progress report, in particular, in relation to the international conventions and protocol relating to terrorism, on:
- *Becoming a party to the instruments to which the Islamic Republic of Iran is not yet a party ; and*
- *Enacting legislation and making other necessary arrangements to implement those to which it is a party.*

Answer:
- The conventions the Islamic Republic of Iran is not a party to are presently under consideration. However, the following laws of the Islamic Republic of Iran cover the subjects and issues addressed by the international conventions and protocols to which the I. R. Iran has acceded and other conventions it is not yet a party thereto:

  1. The Islamic Penal Code of 1991 and 1996.
  2. The National Aviation Act of 1949.
  3. The Extradition Act of 1960.
  4. The Punishment of Perpetrators of Misdemeanor & Felony against other Countries Act 1971.
  5. The Punishments for Saboteurs in Industries Act of 1974.
  6. The Punishment for Saboteurs in Aircraft Safety and Sabotage in the Equipments & Facilities of Airlines Act of 1970.
  7. The Punishment for Kidnapping Act of 1975.

- Moreover, there are other relevant laws and regulations in the Islamic Republic of Iran covering the combating of terrorism, titles of which were annexed to the first report of the Islamic Republic of Iran pursuant to Security Council resolution1373, contained in document no. S/2001/1332.

- It should be pointed out that under Article 9 of the Iranian Civil Code, the provisions of all international conventions and protocols that the Islamic Republic of Iran has acceded to and ratified by the parliament, are legally binding.

Sub-Paragraph 3 (e) :

Question:
Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which the Islamic Republic of Iran is a party?

Answer:
- Yes, they have.

Sub-Paragraphs 3 (f) & (g):

Question:
Please provide the CTC with the relevant legal provisions to implement Sub-Paragraphs 3 (f) & (g) of the resolution.
Do the legislations of the Islamic Republic of Iran ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists?

Answer:
- Under Article 4 of the Refugees Rule, passed on 16 Dec.1963, the granting of the refugee status is contingent upon the lack of ill intentions on the part of refuge seekers. Note 5 of the Rule stipulates that perpetrators of war crimes or offences against peace and humanity or severe public crimes shall not benefit from the provisions of this Rule.

- Paragraph 2 of Article 8 of the Extradition Act envisages that assassination or assassination attempts do not constitute a political offence. Inasmuch as assassination attempt is an explicit instance of terrorism, in a case where an offence involves assassination or assassination attempt, and the culprit, seeking political asylum, claims political motives, whereas the evidence produced by the extradition-seeker government satisfies the competent court, the application of the asylum-seeker shall not be accepted and he/she shall be extradited.

- Article 180 of the Third National Plan of the Islamic Republic of Iran for Economic, Social, and Cultural Development stipulates to explore ways and means for tackling the issues addressed in Sub-Paragraph 3 (f) & (g).

Paragraph 4:

Question:
Has the Islamic Republic of Iran addressed any of concerns expressed in paragraph 4 of the resolution?

Answer:
- Considering the close link between organized crimes and terrorism, especially with regard to funding terrorist activities, and in view of large-scale activities of drug trafficking networks in the region, the Islamic Republic of Iran has undertaken extensive measures to suppress such crimes particularly drug trafficking, which have always been recognized and appreciated by the international community. In this respect, the Islamic

Republic of Iran has suffered the loss of around 3000 law enforcement officers' lives and incurred huge damage.

- To suppress organized crimes, especially drug trafficking, the Islamic Republic of Iran has entered into cooperation with many countries as well as regional and international organizations, particularly UNDCP. And besides signing different agreements, it has organized numerous seminars and specialized courses.

- Recognizing the threats of weapons of mass destruction, and in order to strengthen the relevant international regime, the Islamic Republic of Iran has acceded to most conventions and treaties governing the disarmament and non-proliferation of weapons of mass destruction. The list of the international instruments which Iran has signed or both signed and ratified are as follows:

  - Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare ratified in 1929.

  - Limited Test Ban Treaty ratified in 1964.

  - Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, signed in 1967.

  - Non-Proliferation Treaty, ratified in 1970.

  - Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil thereof, ratified in 1971.

  - Biological and Toxin Weapons Convention, ratified in 1973.

  - Convention on Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, ratified in 1998.

  - Comprehensive Nuclear-Test-Ban Treaty signed in 1996.

- The Islamic Republic of Iran has always underlined the threat of weapons of mass destruction in international forums and in its contacts with other countries. It has also initiated the idea of "Nuclear Weapon Free Zone in the Middle East" within of the UN.

- The Atomic Energy Organization of the Islamic Republic of Iran is entrusted, by law, with controlling and supervising export and import of all radioactive and radio-isotopes materials.

- Following the accession of the Islamic Republic of Iran to the Chemical Weapons Convention (CWC) and through coordination made with the Organization for Prohibition of Chemical Weapons (OPCW), the Customs of the Islamic Republic of Iran controls and supervises export and import of all chemical weapons mentioned in the CWC.

Towards suppressing organized crimes including terrorism, drug trafficking, bank note and government documents counterfeiting, trafficking in arms, munitions and explosives, money laundering and illegal immigration, the Islamic Republic of Iran has concluded bilateral arrangements with a number of countries including Afghanistan, Russia, Georgia, Uzbekistan, Tajikistan, Austria, Italy, Greece, Turkey, Saudi Arabia, Syria, Kazakhstan, Pakistan, Kuwait and Azerbaijan. In the relevant documents, emphasis is put on bilateral, regional and international cooperation and coordination with a view to suppressing the above-mentioned criminal acts.

United Nations S/2003/267

Security Council

Distr.: General
7 March 2003

Original: English

Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/404).

The Counter-Terrorism Committee has received the attached third report from Indonesia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-27284 (E) 110303

Annex

Letter dated 29 January 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Indonesia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Acting upon instructions from my Government, I have the honour to submit herewith the third report on the measures taken by the Government of the Republic of Indonesia pursuant to the provisions of paragraph 6 of resolution 1373 (2001) concerning the fight against terrorism (see enclosure).

I should be grateful if you would have the text of the present letter and its enclosure circulated as a document of the Security Council.

(*Signed*) Mochamad S. **Hidayat**
Ambassador
Chargé d'affaires a.i.

Enclosure

Third report to the Counter-Terrorism Committee (CTC) of the Security Council pursuant to paragraph 6 of resolution 1373 (2001)

Republic of Indonesia

Introduction

Consistent with its efforts to combating the threat of international terrorism, the Government of Indonesia continues to take the necessary and appropriate measures aimed at strengthening the legal infrastructure and enhancing institutional capacities.

Pending the enactment of the Anti Terrorism Bill which has already been submitted to Parliament (Dewan Perwakilan Rakyat-DPR), on 18 October 2002, as an emergency measure, the Government of Indonesia promulgated Government Regulation in-lieu of Law No. 1/2002 on Combating Terrorism, and Government Regulation in-lieu of Law No.2/2002 on the enactment of Government Regulation in-lieu of Law No. 1/2002 and its applicability to the Bali bombing tragedy.

Two Presidential Instructions were also issued in the aftermath of the Bali bombing tragedy, namely Presidential Instruction No. 4/2002 instructing the Coordinating Minister for Political and Security Affairs to formulate a comprehensive policy in combating terrorism, and Presidential Instruction No. 5/2002 instructing the Head of the National Intelligence Agency to coordinate the activities of all the other intelligence agencies. As a follow up to Presidential Instruction No. 4/2002, the Desk for Coordination of Eradicating Terrorism (DCET) was established within the Office of the Coordinating Minister for Political and Security Affairs. This Desk, composed of representatives from the relevant governmental agencies, is tasked to formulate Government policies in combating and eradicating terrorism in a coordinated manner.

Pursuant to Law No. 15/2002 pertaining to Crime on Money Laundering, the Government has also established an independent financial intelligence unit, namely the Indonesian Financial Transaction Report and Analysis Centre (INTRAC), the main task of which is to prevent and eradicate the crime of money laundering.

Regionally, Indonesia and Australia co-hosted a Regional Conference on Combating Money Laundering and Terrorist Financing in Bali in December 2002 with a view to securing a clear view of how countries in the region can work together and track down the financial assets of international crime syndicates. In this regard, on 30 December 2002, the Government took the initiative towards the establishment of a National Coordination Committee on Money Laundering as the focal point for high-level coordination between government and policy-making institutions in preventing and suppressing money laundering.

In addition, the tripartite agreement to share intelligence and cooperate in border control concluded between Indonesia, Malaysia and the Philippines has now been acceded to by Cambodia and Thailand. Indonesia also hosted the ASEAN Workshop on Combating Terrorism

in Jakarta on 20-22 January 2003 to discuss Indonesia's proposals for ASEAN collaboration on post-terrorist attack, and for extradition and/or handing over of terrorist suspects among the 10 ASEAN member countries.

One of the major tragedies, which have attracted great attention from and became the spotlight of the international community, is the Bali bombing on 12 October 2002 - which claimed almost 200 deaths and wounding more than 300 - and the positive steps taken by the Indonesian Police in dealing with the case. The Indonesian Police, in close and intensive cooperation with the Police force from other countries*, was not only able to arrest a significant number of the perpetrators within a relatively short period of time but was also able to further uncover the network and arrest the key terrorists figures who, apparently, were involved in many acts of terrorism/bombings in Indonesia over the last 4 years (1999 to 2002). As such, the bombing cases in Jakarta, Batam, Medan, Bandung and East Java in 2000 were eventually uncovered. This cooperation in dealing with the post terrorist attacks is considered as positive and could become a model to be emulated by other countries. The Bali bombing investigation process therefore underlines the importance of strengthening international cooperation.

1. **Implementation measures**

1.1. **The CTC has agreed on further questions and comments for the consideration of the Government of Indonesia with regard to the implementation of the Resolution, as set out in this section.**

1.2. **Effective implementation of the requirement to prevent the financing of terrorism requires that the legal obligation to report suspicious transactions for banks and financial institutions should extend to all professions engaged in financial transactions (such as lawyers and accountants) and should be subjected to penalties for non-compliance. Could Indonesia please outline any measures it has taken for achieving this objective, or comment on the action it intends to take in this regard.**

Based on Bank Indonesia's Regulation No. 3/10/PBI/2001 and No. 3/23/PBI/2001 concerning "Know Your Customer" (KYC) principle, particularly Article 14, banks are required to submit Suspicious Transactions Report (STR) to Bank Indonesia; while based on Law No. 15/2002 concerning Crime on Money Laundering, particularly Article 13 Paragraph (1), Financial Service Providers (including banks) are required to submit such reports to the Indonesian Financial Transaction Report and Analysis Centre (INTRAC). Financial Service Provider is any person (a natural person or a corporation) that provides services in the financial area, including but not limited to banks, financial institutions, securities companies, mutual fund managers, trust agents, depository and settlement agents, foreign exchange traders, pension funds, and insurance, but do not include accountants, lawyers, and other professionals. The Government is in the process to amend the said Law to, among others, include professionals, such as accountants and lawyers, to submit such reports.

1.3. **According to sub-paragraph 1 (d) of the supplementary report, Indonesia can apply only administrative sanctions against banks which do not comply with the regulations**

* Australia, France, Germany, Japan, the Netherlands, New Zealand, the Philippines, Sweden, U.K. and USA.

issued by the Bank of Indonesia. What administrative or penal sanctions does Indonesia apply to natural persons who fail to report suspicious transactions to the competent authorities? If there are none is it intended to introduce any such sanctions?

Bank Indonesia is not vested with regulatory power to require natural persons to submit suspicious transaction reports to it nor is it authorised to impose sanctions on them for non-compliance in submitting such reports. As the banking authority, Bank Indonesia requires banks to submit suspicious transaction reports to it and may impose only administrative sanctions to them for non-compliance in submitting the reports. The administrative sanctions would be in the form of payment of a sum of money by the banks to Bank Indonesia. Bank Indonesia is not vested with regulatory power to impose penal sanctions to banks because such penal sanctions (in the form of payment of a sum of money to the State Budget and/or in the form of physical punishment) shall derive from the existing laws and shall be decided by the judge in accordance with due process of law.

Under Law No. 15/2002, particularly Article 8, Financial Service Providers (including banks), which are non-compliant in submitting suspicious transaction reports to the Indonesian Financial Transaction Report and Analysis Centre (INTRAC), are subject to penal sanctions in the form of a fine. Further, Article 11 of the said Law stipulates that if the person is unable to pay the fine, as a substitute, that person shall be imprisoned.

1.4. **Effective implementation of sub-paragraph 1 (b) of the Resolution requires a member State to criminalize the wilful collection or provision of funds within that member State by nationals/national entities or by foreigners/foreign entities with the intention or in the knowledge that they will be used for terrorist acts, committed either within or outside the member State. This is also required under articles 2 and 4 of the *Convention for the Suppression of the Financing of Terrorism*, which Indonesia intends to ratify. The acts sought to be criminalized may be committed without any related terrorist act actually occurring or being attempted and the funds used for the financing of terrorism could be both of a legal and an illegal origin. In this context, please elaborate how these acts will be criminalized in the Indonesian anti-terrorism act, which is currently under preparation or through the amendments of existing penal provisions.**

Fund raising or asset accumulation that is intended to be used or with reason to believe that will be used partly or wholly to commit an act of terrorism has been criminalized under Articles 11 and 12 of Government Regulation in-lieu of Law (Perpu) No. 1/2002. Under Article 12, conspiracy, attempts, and accomplice to commit acts of terrorism with particular regard to nuclear, chemical and biological weapons, are also subject to punishment as terrorist acts. Similar provisions are accommodated in the Anti Terrorism Bill already submitted to Parliament.

1.5. **Please clarify what is meant by stating that assets can be seized *"through regional cooperation or other bilateral and multilateral forum"* (page 7 of Doc. S/2002/731).**

Article 44 of Law No. 15/2002 concerning Crime on Money Laundering and Article 43 of Government Regulation in-lieu of Law (Perpu) No. 1/2002 vested the Government with power to undertake regional and international cooperation, through bilateral or multilateral forum, to conduct investigation, prosecution and examination before the court.

Cooperation between the Indonesian law enforcement agencies and its foreign counterparts is intended to prevent and combat the crime of money laundering, which is a trans-national crime. Bilateral arrangements on mutual legal assistance on criminal matters will facilitate the seizure of such assets. Currently, Indonesia has concluded bilateral treaties with Australia, the People's Republic of China and Republic of Korea.

1.6. **Effective implementation of sub-paragraph 1 (c) of the Resolution requires that terrorist funds and other financial assets or economic resources should be frozen without delay and irrespective of their amount or value. Please explain how Indonesia ensures a freezing of such funds etc without delay and irrespective of their amount or value.**

Government Regulation in-lieu of Law (Perpu) No. 1/2002 on Combating Terrorism, particularly Article 29, stipulates that:

- Investigators, public prosecutors or judges have the authority to order banks or financial service providers to freeze the assets of any person believed or with reason to believe to be the proceeds from acts of terrorism and/or crimes related to terrorism, irrespective of the amount or value.

- Orders from investigators, public prosecutors or judges must be given in writing, clearly indicating:

  a. the name and designation of the investigator, the public prosecutor or the judge concerned;
  b. the identity of any person reported by banks or other financial service providers to the investigators, suspect or defendant;
  c. reasons for freezing;
  d. criminal acts, alleged or prosecuted;
  e. location of the assets.

- After receiving the order from the investigator, public prosecutor or judge, banks and financial service providers must immediately freeze the assets.

- Banks and financial service providers shall submit the records of the asset-freezing process to the investigator, public prosecutor or judge within one (1) day as of the date of the freezing.

- The frozen assets must remain at the bank and financial service provider concerned.

1.7. **In the context of sub-paragraph 1 (c) of the Resolution, please outline the procedure that leads to the freezing of terrorist funds etc upon request of foreign authorities.**

Under Government Regulation in lieu of Law (Perpu) No. 1/2002, particularly Article 43, in combating terrorism the Government shall establish international cooperation with other countries in the field of intelligence, police, and other technical cooperation to combat terrorism in accordance with the existing relevant laws.

In this regard, the foreign authority shall address the request in writing to the Indonesian investigator, which, after been reviewed, the investigator will order the bank or the financial

service provider wherein the suspect has the asset, to freeze it. The bank or the financial service provider shall then immediately freeze the asset as explained in paragraph 1.6 above.

1.8. **Effective implementation of paragraph 1 of the Resolution requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources collected by non-profit organisations (e.g. religious, charitable or cultural organisations) are not diverted for other than the stated purposes, particularly for financing of terrorism. Please explain whether such provisions or measures are in place in Indonesia and, if not, how Indonesia proposes to monitor the use of funds etc by non-profit organisations.**

Law No. 15/2002, particularly Article 13, imposes obligation on financial service providers (including banks) to submit suspicious transaction reports to the Indonesian Financial Transaction Report and Analysis Centre (INTRAC). Having reviewed the reports and having found indication of criminal act of money laundering, under Article 26, INTRAC shall submit these reports to the police for further investigation.

Article 2 of the said Law stipulates that terrorism constitutes one of the 15 predicate crimes that trigger money laundering.

Moreover, Article 13 of Government Regulation in lieu of Law (Perpu) No. 1/2002, stipulates that any person who wilfully provides assistance or facilities to terrorists by:

- providing or extending money or goods or other properties to terrorists;
- hiding the terrorist; or
- withholding information related to acts of terrorism,

is subject to imprisonment for a minimum of three years and maximum 15 years.

1.9. **Please outline any existing or proposed legal provisions that criminalize the use of Indonesian territory by Indonesian citizens, foreigners or stateless persons for the purpose of financing, planning, facilitating or committing terrorist acts against Indonesia as well as against other States or their citizens. Effective implementation of sub-paragraphs 2 (d) and (e) of the Resolution requires that such provisions should be incorporated in the penal law of Indonesia.**

Pending the adoption of the Anti Terrorism Bill by Parliament, on 18 October 2002,as an emergency measure, Indonesia enacted Government Regulation in-lieu of Law (Perpu) No. 1/2002 on Combating Terrorism and Government Regulation in-lieu of Law (Perpu) No.2/2002 on the enactment of Government Regulation in-lieu of Law (Perpu) No. 1/2002.

Article 3 (1) of Government Regulation in-lieu of Law (Perpu) No. 1/2002 stipulates that: "this Government Regulation in lieu of Law prevails upon anyone conducting or having intention to conduct crime of terrorism in the territory of the Republic of Indonesia and/or in the territory of other states which also have jurisdiction and have expressed their intention to prosecute the offender".

The said Government Regulation also covers, inter alia, making funds or assets available for acts of terrorism or intention to make funds available for acts of terrorism (Articles 11 and 12); facilitating or supporting terrorists (Article 13); planning and/or directing people to do

acts of terror (Article 14); plotting/conspiring to conduct and supporting acts of terror (Article 15).

As has already been mentioned in the First Report of the Government of Indonesia to the CTC, Law No. 9/1992 on Immigration, particularly Articles 42 (1) and 42 (2), provide steps to be taken against foreigners residing in Indonesia who carry out dangerous activities deemed threatening the general public order or violating existing national laws and regulations. Article 54 provides that anyone who provide safe haven are liable to maximum of six years imprisonment or a fine of 30 million Rupiahs.

1.10. **Effective implementation of sub-paragraph 2 (e) of the Resolution requires that States ensure that persons who participate in the financing, planning, preparation or perpetration of terrorist acts or who support such acts are brought to justice either by submitting the case without undue delay to their respective competent authorities for the purpose of prosecution or by extraditing these persons. This applies without any exception whatsoever and whether or not the offence was committed in their respective territories. Please explain how, in order to comply with sub-paragraph 2 (e), Indonesia would deal with a foreign national who is in Indonesia and has committed a terrorist act outside Indonesia against a State other than Indonesia or against that State's citizens. Is it possible under current or proposed law to prosecute that person in Indonesia, if he or she is not extradited.**

Article 3 (1) of the Government Regulation in-lieu of Law (Perpu) No. 1/2002 stipulates that this Regulation in lieu of Law prevails upon anyone conducting or having intention to conduct crime of terrorism in the territory of the Republic of Indonesia and/or in the territory of other states which also have jurisdiction and expressing their intention to prosecute the offender. According to the Elucidation of Article 3 of this Government Regulation, jurisdictional claim of other states does not automatically bind the Indonesian Government to accept the claim as far as there is no extradition agreement or mutual legal assistance on criminal law, unless both the Indonesian Government and the Government of the State requesting such extradition agree to apply the principle of reciprocity.

Furthermore, Article 3 (2) states that other States have jurisdiction, as mentioned in paragraph (1), if:

a. The crime is committed by a national of the state concerned;
b. The crime is committed against a national of the state concerned;
c. The crime is committed in the state concerned;
d. The crime is committed against a state or government facilities of the state concerned abroad, including the foreign mission or the residence of diplomat or consul of the state concerned;
e. The crime is committed in a violent manner or under threat of violence compelling the state concerned to undertake or not to undertake certain measures;
f. The crime is committed against an aircraft operated by the government of the state concerned; or
g. The crime is conducted on a ship under the flag of the state concerned or on an aircraft registered in accordance to the regulation of the state concerned at the time when the crime was committed.

1.11. **Sub-paragraph 3 (d) of the Resolution requires all States to become parties as soon as possible to all the relevant international conventions and protocols relating to terrorism. The CTC would appreciate receiving information on the progress made by Indonesia with regard to becoming a party to the following conventions and protocols:**

1. **International Convention for the Suppression of the Financing of Terrorism (1999);**

2. **International Convention for the Suppression of Terrorist Bombings (1997);**

3. **Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;**

4. **International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;**

5. **Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988;**

6. **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988;**

7. **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;**

8. **Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991.**

Progress made by Indonesia with regard to becoming a party to:

a. The International Convention for the Suppression of the Financing of Terrorism (1999), and the International Convention for the Suppression of Terrorist Bombings (1997):

   1. The Inter-agency Forum will further continue its deliberation on the two Conventions with a view to finalizing the process for ratification or accession, including their implications to domestic laws.
   2. The Inter-agency Forum needs to prepare appropriate official translation of the two Conventions.
   3. It is expected that these processes will be finalized in 2003.

b. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973):

   As of now, no initiatives have been taken due to the fact that priority is being given to the process of finalizing the enactment of the national law against terrorism which has already been submitted to Parliament, and of ratifying or acceding to the Convention for

the Suppression of the Financing of Terrorism (1999) and the Convention for the Suppression of Terrorist Bombings (1997).

c. International Convention against the Taking of Hostages (1979):

As of now, no initiatives have been taken due to the fact that priority is being given to the process of finalizing the enactment of the national law against terrorism which has already been submitted to Parliament, and of ratifying or acceding to the Convention for the Suppression of the Financing of Terrorism (1999) and the Convention for the Suppression of Terrorist Bombings (1997).

d. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1998):

Indonesia has signed the Protocol on 24 February 1988. Although the Protocol has yet to be ratified by Indonesia, in practice it has already been implemented under Article 8 of Government Regulation in-lieu of Law (Perpu) No. 1/2002. Appropriate measures will be taken to ratify the Protocol.

e. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988):

As of now, no initiatives have been taken due to the fact that priority is being given to the process of finalizing the enactment of the national law against terrorism which has already been submitted to Parliament, and of ratifying or acceding to the Convention for the Suppression of the Financing of Terrorism (1999) and the Convention for the Suppression of Terrorist Bombings (1997).

f. Protocol for the Suppressions of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988):

As of now, no initiatives have been taken due to the fact that priority is being given to the process of finalizing the enactment of the national law against terrorism which has already been submitted to Parliament, and of ratifying or acceding to the Convention for the Suppression of the Financing of Terrorism (1999) and the Convention for the Suppression of Terrorist Bombings (1997).

g. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991):

As of now, no initiatives have been taken due to the fact that priority is being given to the process of finalizing the enactment of the national law against terrorism which has already been submitted to Parliament, and of ratifying or acceding to the Convention for the Suppression of the Financing of Terrorism (1999) and the Convention for the Suppression of Terrorist Bombings (1997).

1.12. **The CTC notes that the crimes set forth in Article 7 (1) of the *Convention on the Physical Protection of Nuclear Material* do not seem to be included in the bilateral treaty on extradition what Indonesia has concluded with Australia. Please inform the CTC whether they have been included.**

The Convention has been ratified by Indonesia by Presidential Decree No.49/1986.

Although the offence is not explicitly stipulated in the bilateral Extradition Treaty between Indonesia and Australia, such crime may be extradited on the basis of Article 2 (2) of the Treaty, which states that: "Extradition may also be granted at the discretion of the Requested State for any other act or omission constituting an offence if the offence, according to the laws of both Contracting States, is one for which extradition can be granted."

1.13. **Please confirm that all the offences set forth in:**

- **Article 1 of the *Convention for the Suppression of Unlawful Seizure of Aircraft* and**
- **Article 1 of the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation***

are offences which are extraditable in relation to the Philippines, Hong Kong SARC, Malaysia, Thailand, Australia and to the Republic of Korea under Indonesian law.

Offences set forth in Article 1 of the Convention on Unlawful Seizure of Aircraft and Article 1 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation are extraditable in relation with the bilateral extradition treaty with the Philippines, the People's Republic of China, Malaysia, Thailand, Australia, and Republic of Korea. With regard to Hong Kong SARC, Indonesia has concluded arrangement on Surrender of Fugitive Offenders.

1.14. **Sub-paragraph 3 (g) of the Resolution requests States to ensure *"that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists"*. Please clarify how Indonesia intends to meet this requirement, in particular in view of Article 5 (1) of Law No. 1/1979.**

Article 5 of Government Regulation in-lieu of the Law (Perpu) No.1/2002 states that acts of terrorism shall be excluded from political crimes, related to political crimes, and politically motivated crimes as stated in Article 5 (1) of Law No. 1/1979. In this regard, acts of terrorism can be subjected to extradition, the enforcement of which will be subject to extradition law in Indonesia.

1.15. **Please provide the CTC with a copy of the draft Indonesian legislation on anti terrorism, once it has been enacted. In this context, the CTC would be interested to know when it is expected to enter into force.**

The Government of Indonesia will provide a copy of the draft Indonesian legislation on anti terrorism, once it has been enacted. At the present time, the Government has submitted the Anti Terrorism Bill to the Indonesian Parliament (Dewan Perwakilan Rakyat-DPR). Pending its adoption, the Government of Indonesia is attaching herewith a copy of the Government Regulation in-lieu of Law (Perpu) No. 1/2002 and Government Regulation in-lieu of Law (Perpu) No. 2/2002. However, due to the time constraint, copies of the aforementioned Government Regulations are in the Indonesian language (Bahasa Indonesia). The Government will provide a copy of the aforementioned Government Regulations in English as soon as they are available.

2. **Assistance and guidance**

2.1 **The CTC is eager to facilitate the provision of assistance and advice in connection with the implementation of the Resolution. It encourages the Government of Indonesia to inform the CTC of any areas in which assistance or advice might be of benefit in taking forward the implementation of the Resolution in Indonesia, or of any areas in which Indonesia might be in a position to offer assistance or advice to other States on the implementation of the Resolution. The CTC maintains a Directory of Information and Sources of Assistance in the field of Counter-Terrorism on which all relevant information on available assistance is posted. It can be found on the CTC's website (www.un.org/sc/ctc). The CTC's Technical Assistance Team is available to discuss any aspect of the provision of assistance and can be contacted as in paragraph 3.1 below.**

2.2. **The CTC notes that the Government of Indonesia has not requested assistance in connection with the implementation of the Resolution.**

2.3. **At this stage the CTC will be focusing on requests for assistance that relate to 'Stage A' matters. However, the assistance to be provided by one State to another on any aspect of the implementation of the Resolution is a matter for agreement between them. The CTC would be grateful to be kept informed of any such arrangements and on their outcome.**

With regard to 2.1, 2.2, and 2.3. pertaining to requests and/or offers for assistance in the efforts to combating terrorism, the Government of Indonesia is presently in the process of preparing a consolidated list of assistance required by the various relevant agencies. This undertaking is being carried out through the Intra-agency Forum mechanism.

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Security Council

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 7 March 2002 (S/2002/260).

The Counter-Terrorism Committee has received the attached supplementary report from Bahrain, submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-27369 (E) 280303

Annex

Letter dated 19 February 2003 from the Permanent Representative of Bahrain to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 7 March 2002, I have the honour to forward the supplementary report of the Kingdom of Bahrain to the Counter-Terrorism Committee (see enclosure), together with the annexes referred to in the report.

I should be grateful if the text of the present letter and the enclosed report (without the annexes) could be circulated as a document of the Security Council. The enclosed annexes are included only for the Committee's records.

I hope the report provides all the information requested by the Committee.

(*Signed*) Tawfeeq **Almansoor**
Ambassador Extraordinary and Plenipotentiary

Enclosure

[Original: Arabic]

Supplementary report of the Kingdom of Bahrain (ref. S/2001/1210 of 14 December 2001) pursuant to paragraph 6 of Security Council resolution 1373 (2001)

With reference to the letter dated 7 March 2002 from the Chairman of the Security Council Committee concerning counter-terrorism (CTC) requesting clarifications to supplement the report (S/2001/1210) of the Kingdom of Bahrain on the steps that it has taken to implement Security Council resolution 1373 (2001) concerning counter-terrorism, the following are replies, in order, submitted by the Government of the Kingdom of Bahrain to the points on which clarification was requested in the note from the Chairman of the Committee:

1. Paragraph 1

1.1 **Could Bahrain please clarify whether the circulars issued by the Bahrain Monetary Agency (BMA) have the force of law?**

The circulars issued by BMA do have the force of law. They are binding on those to whom they are addressed and must be applied immediately upon receipt, as a form of secondary legislation. The Agency Law (para. 14) authorizes BMA to draw up the regulations required to apply the provisions of the Law and (para. 15) allows the Chairman of the Board to delegate his authority to other officials of the Agency.

1.2 **Please clarify the relationship, with respect to the prohibition and suppression of money-laundering, between the circulars of BMA and Decree Law No. 4/2001.**

Decree Law No. 4/2001 requires, *inter alia*, that the authorities, Ministries and Government institutions concerned shall, in coordination with the implementation unit, issue instructions concerning measures taken to prohibit and prevent money-laundering operations.

1.3 **Please explain whether the existing legal provisions allow freezing of other economic resources or other related services when used to support terrorist acts (para. 1 (c) of the resolution).**

The authority concerned may obtain a judicial order to enable it to seize or confiscate such assets under the Penal Code of 1976 or the Code of Criminal Procedure of 2002, depending on the specific nature of the request.

1.4 **CTC would be grateful to receive copies of the provisions of BMA circulars and Decree Law No. 4/2001 concerning the prohibition and suppression of money-laundering, including the provisions for punishment.**

Decree Law No. 4/2001 concerning the prohibition and suppression of money-laundering is attached as annex 1.

The BMA circulars and bulletins addressed to all banks, brokers and money-changers are attached as follows:

1. Circular concerning economic sanctions against and relating to the Taliban (annex 2);
2. Circular concerning Financial Action Task Force recommendations on terrorist financing (annex 3);
3. Circular concerning money-laundering measures (annex 4);
4. Circular concerning economic sanctions against and relating to Usama bin Laden (annex 5);
5. Circular concerning Security Council resolution 1373 (2001) on prevention of the financing of terrorism (annex 6);
6. Questionnaire concerning suspicious financial transfers (annex 7).

1.5 It is stated that *hawalah* networks will not be permitted to operate without licences. Please describe the licence system and explain how Bahrain ensures that this system is not abused by persons connected with terrorist acts. Please explain in particular how the licence system prevents abuse in transactions involving countries where the *hawalah* system is not regulated.

Money is transferred by banks and exchange offices operating within the framework of licence requirements and under the supervision of BMA. Financial institutions must comply with the annexed circulars concerning suppression of money-laundering and the financing of terrorism. They are also subject to regular on-site inspections. Pursuant to the provisions of the money-laundering law, these institutions must exercise prudence, particularly in transactions with clients from countries lacking good laws and practices to suppress money-laundering.

2. Paragraph 2

2.1 Please describe how the Penal Code promulgated by Decree Law No. 15/1976 covers the requirements of operative paragraphs 2 (a), (b), (c) and (d), given that there are no explicit references to terrorist acts in the Code.

With respect to the question whether the Penal Code fulfils the requirements of Security Council resolution 1373 (2001) (para. 2), reference to the Code, as promulgated by Decree Law No. 15/1976, reveals the following provisions:

Article 6

The provisions of this Code shall apply to any national or alien who commits outside the State of Bahrain any act that makes him a perpetrator of or accessory to an offence prejudicial to the external or internal security of the State, as specified in part II, chapter 1, sections 1 and 2, or the offence of forging State seals and emblems or counterfeiting currency and monetary instruments, as specified in articles 257, 262 and 263.

Article 45

Whosoever is involved as a perpetrator of or accessory to the offence shall be subject to the corresponding penalty, unless otherwise specified by the Code.

Article 129

Whosoever deliberately destroys, wrecks or ruins weapons, ships, aircraft, equipment, installations, devices, utilities, munitions, provisions, medicines or other items intended for defence of the State or used for that purpose shall be subject to rigorous imprisonment for life or for a term.

The same penalties shall apply to whomsoever deliberately sabotages their production or repair or acts in such a way as to render them, albeit temporarily, unfit for their intended use or otherwise harmful. The death penalty or rigorous imprisonment for life shall apply if the offence is committed in time of war.

Article 137

A person shall be prosecuted as an accessory to the offences specified in this section if:

1. He was aware of the offender's intentions and provided him with aid, means of subsistence, accommodation, shelter, a meeting-place or other assistance; he bore his messages, helped him to find the object of the offence, concealed him, transported him or provided him with information;

2. He knowingly concealed items used or designed to be used in, or derived from, commission of the offence;

3. He deliberately destroyed, misappropriated, concealed or altered a document revealing the offence, providing evidence of it or facilitating prosecution of its perpetrators.

This article shall not apply to the spouse, progenitors or offspring of the offender.

The court is empowered to excuse relatives of the offender, including relatives by marriage, up to the fourth degree of separation, unless they are prosecuted under another article of this Code.

Article 148

Whosoever conspires forcibly to overturn or alter the Constitution of the State, the rule of the Amir or the form of government, or to usurp such rule shall be subject to rigorous imprisonment for life or for a term.

Where the offence is committed by an armed band, whosoever formed, headed or occupied any leading position in the band shall be subject to the death penalty.

Article 149

Whosoever conspires forcibly to occupy a public building or the premises of Government agencies or any of the authorities mentioned in article 107, paragraphs 1, 5 and 6 shall be subject to rigorous imprisonment for life or for a term. Where the offence is committed by an armed band, whosoever formed, headed or occupied any leading position in the band shall be subject to the death penalty.

Article 150

Whosoever takes control of a division or section of the army, a warship, warplane, military position, port or city without Government authorization or other legitimate reason shall be subject to rigorous imprisonment for life.

Article 152

Whosoever forms a band which attacks a group of people, puts up armed resistance to police officers to prevent law enforcement, heads such a band or occupies any leading position therein shall be subject to the death penalty.

Whosoever joins such a band without participating in its formation or occupying any leading position therein shall be subject to rigorous imprisonment for life or for a term.

Article 153

Whosoever assumes control of an armed band, occupies any leading position therein or otherwise manages its movements or actions for the purpose of seizing or usurping land or property owned by the Government or a group of people, or resists the military force responsible for pursuit of the perpetrators, shall be subject to the death penalty.

Other members of such a band shall be subject to rigorous imprisonment.

Article 154

Whosoever knowingly gives or provides to a band as described in the article above weapons, equipment or machines used to achieve its objective, or sends it supplies, collects funds for it, enters into criminal communications in any manner whatever with the chiefs or administrators of such bands, or, knowing its purpose and character, provides them with accommodation or premises where they take refuge or meet together shall be subject to rigorous imprisonment for life or for a term.

Article 277

Whosoever causes a fire endangering the life of individuals or their property, whether movable or immovable, even if that property is his own, shall be subject to rigorous imprisonment for a term not exceeding ten years.

Causing a fire in a public building, premises used for public purposes, a residential complex or one intended for such use, on a means of public transport, or in munitions, weapons, explosives, fuel, mines, pipes or oil wells, shall be considered as aggravating circumstances.

The penalty shall be rigorous imprisonment if the fire leads to permanent disablement; if it leads to a human fatality, the penalty shall be death or rigorous imprisonment for life.

Article 278

Whosoever negligently sets fire to the movable or immovable property of another shall be subject to imprisonment and a fine, or to one of these two penalties.

Article 279

Whosoever uses explosives to commit an offence as specified in article 148 or to sabotage buildings or installations of public utility or intended for the use of Government agencies or one of the authorities mentioned in article 107, or for public meetings, or other buildings or premises designed to be frequented by the public, shall be subject to the death penalty.

Article 280

Whosoever knowingly uses or conspires to use explosives in such a way as to endanger human lives shall be subject to rigorous imprisonment.

If the explosion causes a human fatality, the penalty shall be rigorous imprisonment for life.

Article 281

Whosoever knowingly uses or conspires to use explosives in such a way as to endanger the property of another shall be subject to rigorous imprisonment for a term not exceeding ten years.

If the explosion causes serious damage to property, the penalty shall be rigorous imprisonment.

Article 282

Whosoever knowingly causes a serious accident on board a ship, aircraft or any other means of public transport shall be subject to rigorous imprisonment for life.

Article 283

Whosoever knowingly endangers the life or safety of individuals by placing materials, germs or other items which may cause death or serious damage to public health in a well, reservoir or other facility designed for public use shall be subject to rigorous imprisonment for life or for a term.

Article 284

Whosoever knowingly endangers a means of public land, air or sea transport or in any way impedes its functioning shall be subject to rigorous imprisonment.

Whosoever in any way impedes a means of public cable or wireless communication shall be subject to rigorous imprisonment for a term not exceeding ten years.

Article 285

Where the action specified in the preceding articles results in a human fatality, the offender shall be subject to the death penalty or rigorous imprisonment for life.

Article 286

Whosoever in any way knowingly endangers a means of private transport shall be subject to imprisonment and, where the result is a human fatality, the penalty shall be rigorous imprisonment.

Article 287

Where an offender, for the purpose of committing an offence specified in this or the preceding section, takes advantage of turmoil or strife, or uses force or the threat of force to commit his offence, this shall be an aggravating circumstance.

Article 288

Whosoever negligently causes the perpetration of any offence specified in this section shall be subject to imprisonment and a fine, or to one of these two penalties.

Article 289

Whosoever transports or conspires to transport explosives or flammable materials in a means of land, sea or air transport or to mail them in letters or parcels in violation of the pertinent rules and regulations shall be subject to imprisonment for a term not exceeding six months and a fine not exceeding 50 dinars, or to one of these two penalties.

Article 290

Whosoever knowingly disturbs another by misuse of cable and wireless communications equipment shall be subject to imprisonment for a term not exceeding six months and a fine not exceeding 50 dinars.

Article 291

Whosoever in any way damages a device, instrument or other piece of equipment designed for use by the ambulance, fire or water rescue services, or by any other emergency service, shall be subject to imprisonment for a term not exceeding one year.

It will be clear from the foregoing provisions that they do in fact cover criminalization and prosecution of all terrorist acts, in accordance with the requirements of para. 2 of Security Council resolution 1373 (2001).

2.2 **Does Bahrain intend to propose new legislation relating specifically to terrorist acts, or actions related thereto?**

In addition to the comments above, the competent authority has drawn up a draft amendment to the Penal Code, emphasizing the criminalization of terrorist acts and stiffening related penalties as a deterrent. It also criminalizes all forms of collection of contributions for, or funding of, such groups, as well as financial transactions of any sort with terrorist elements or groups. It explicitly provides for criminalization of the terrorist acts referred to in related international conventions.

2.3 **Is there any early warning mechanism to allow exchange of information with other States?**

The early warning mechanism used by other States, designed to prevent the commission of terrorist acts, is based on immediate, rapid exchange of information with the security services of such States, by means of direct, personal contact or modern means of electronic communication.

The Ministry of the Interior has established a counter-terrorism section within the organizational structure of the National Security Service and designated it as the focal point for exchange of information through this mechanism.

2.4 **Please provide the CTC with information on the mechanism for inter-agency co-operation for a unified approach in implementing this sub-paragraph as regards the interaction between the authorities responsible for narcotics control, financial tracking and security.**

The competent authority in Bahrain and its security services are committed to positive cooperation, effective coordination and continuous consultation with the security services of other countries and to the exchange of any information on prevention of terrorist acts and the prevention and suppression of funding for terrorism. They are always fully prepared to exchange information with them, to assist in the taking of preventive measures or to conduct any enquiries or investigations that may be requested in this regard.

On the national level, cooperation and coordination is assured by the policy committee on the prevention and suppression of money-laundering, which comprises the competent Government agencies (Ministries of Foreign Affairs, Justice, the Interior and Finance and National Economy, and the Bahrain Monetary Agency). There is also direct contact between the Government agencies concerned and swift, immediate exchange of information on the suppression of terrorism, organized crime and tracking and prevention of any links between terrorist groups and organized crime gangs.

On the regional level, there is close cooperation, joint coordination and continuous consultation among security services through the Cooperation Council for the Arab States of the Gulf, the Council of Arab Ministers of the Interior (League of Arab States), as well as cooperation and coordination with other friendly countries.

2.5 **Could Bahrain please outline the legal provisions aimed at complying with paragraphs 2 (c) and (g) of the resolution.**

Article 154 of the Penal Code above prohibits the giving of shelter to any terrorist armed band and states that anyone violating this rule shall be subject to rigorous imprisonment for life or for a term. Article 137 of the same Code establishes the same penalty as that for the underlying offence in respect of any person knowing the intentions of the offender who provides him with any aid, means of subsistence, accommodation, shelter, meeting-place or other assistance. These articles therefore comply with paragraph 2 (c) of the Security Council resolution.

With regard to legal provisions for compliance with paragraph 2 (g) of the resolution, article 5 of Law No. 11/1975 concerning passports states that departure from or return to the country is permitted only through designated points, with the authorization of the competent passport officer. Article 18 of the same Law provides, without prejudice to any heavier penalty imposed by another law, that whosoever violates the provisions of article 5 shall be subject to imprisonment and a fine, or to one of these two penalties. The same penalty shall apply to whomsoever provides false information or makes false statements in order to obtain a passport for himself or any other person, or signs a document containing false information presented by an applicant for a passport or travel document.

Furthermore, articles 270 to 276 of the Penal Code promulgated by Decree Law No. 15/1976 (chapter 4, section 3) prohibit the forging of written documents and establish penalties for whomsoever violates these provisions by counterfeiting or forging identity papers or travel documents.

The above paragraphs demonstrate that national legislation does comply with the requirements set out in paragraphs 2 (c) and (g) of the Security Council resolution.

2.6 **Sub-paragraph 2 (e) requires that punishments duly reflect the seriousness of the offences. As there is no information in the report on this topic, the CTC would like to know if there are deterrent punishments for these offences in Bahrain.**

A reading of the provisions set out above under paragraph 2.1 reveals that, for most offences, the penalties imposed are rigorous imprisonment for life and, in some cases, the death penalty, both being formidable deterrents.

Also, Decree Law No. 16/1976 concerning explosives, weapons and munitions and Decree Law No. 4/2001 concerning the prohibition and suppression of money-laundering establish deterrent penalties for terrorist acts.

The country's competent authority has drawn up a draft amendment to the Penal Code, emphasizing the criminalization of terrorist acts and stiffening related penalties as a deterrent. It also criminalizes all forms of collection of contributions for, or funding of, such groups, as well as financial transactions of any sort with terrorist elements or groups. It explicitly provides for criminalization of the terrorist acts referred to in related international conventions.

2.7 **The CTC would be grateful to know what procedures and mechanisms are in place in Bahrain to assist other States in criminal investigations or criminal proceedings relating to the financing or support of terrorist acts.**

The Kingdom of Bahrain endeavours to ensure effective international cooperation within a comprehensive integrated system to combat terrorism.

3. Paragraph 3

3.1 **Sub-paragraphs 3 (a), (b) and (c) of the resolution call for exchange of information and cooperation amongst States on administrative and financial matters to prevent the commission of terrorist acts. Bahrain has reported the existence of such cooperation and exchange of information. Please elaborate on the existing measures, procedures and/or institutional mechanisms concerning the matters in the above-mentioned paragraphs. Are there any bilateral or multilateral arrangements to which Bahrain is a party?**

The competent authority has taken the necessary steps and measures to strengthen the coordination of national, regional and international efforts to confront the close linkage between international terrorism, organized crime, illicit traffic in narcotic drugs, money-laundering, trafficking in arms and noxious and lethal substances, and other forms of organized crime.

On the national level, cooperation and coordination is assured by the policy committee on the prevention and suppression of money-laundering, which comprises the competent Government agencies (Ministries of Foreign Affairs, Justice, the Interior and Finance and National Economy, and the Bahrain Monetary Agency). There is also direct contact between the Government agencies concerned and swift, immediate exchange of information on the suppression of terrorism, organized crime and tracking and prevention of any links between terrorist groups and organized crime gangs.

On the regional level, there is close cooperation, joint coordination and continuous consultation among security services through the Cooperation Council for the Arab States of the Gulf, the Council of Arab Ministers of the Interior (League of Arab States), as well as cooperation and coordination with other friendly countries.

3.2 **Please indicate by what date Bahrain proposes to ratify the seven universal instruments on the prevention and suppression of international terrorism that it has not yet ratified. Are there any separate laws or other means to implement the international conventions Bahrain has ratified? If so, please describe them. Please provide a report on progress in giving effect to the ratified conventions in domestic law.**

In answer to the first part of the question, the country's competent authorities are currently reviewing the international conventions on the prevention and suppression of international terrorism to which it has not yet acceded.

In answer to the second part, article 37 is the legal basis for the approval and ratification of treaties. Under paragraph 1 of that article, treaties are approved by decree and have legal force once approved, ratified and published in the Official Gazette.

Could Bahrain please indicate whether the crimes mentioned in the relevant international conventions have been included as extraditable offences in the bilateral treaties which Bahrain has concluded with other countries.

The offences mentioned in the aforementioned conventions have been incorporated into the bilateral agreements signed by Bahrain with other States. Furthermore, the bilateral, Arab and Islamic agreements to which Bahrain has acceded provide specific frameworks for the extradition and exchange of offenders. Crimes of terrorism are included among the offences in respect of which these agreements provide for extradition. Furthermore, article 11, paragraph 5, of the International Convention for the Suppression of the Financing of Terrorism, which was signed by Bahrain at New York on 14 November 2001, states: "The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention."

Accordingly, all bilateral agreements and treaties between States Parties are modified by this provision to criminalize the financing of terrorism, and persons linked to such activities are extradited or exchanged on this basis.

3.3 **Please indicate whether there are any legal or other means available to prevent persons linked to terrorist acts seeking asylum in Bahrain.**

Under national legislation, anyone who commits terrorist acts shall be called to account and subject to the penalties specified in the provisions above. Articles 137 and 154 of the Penal Code prohibit the sheltering of offenders or the provision of any aid or assistance to them in the form of accommodation, shelter or means of subsistence, etc., as set forth above.

3.4 **It is stated that Bahrain has ratified the Arab Convention for the Suppression of Terrorism by its Law No. 15/1998. Please outline this law.**

Bahrain has a firm and clear position of principle in condemning all forms and manifestations of terrorism, whatever their cause. It is determined to cooperate closely to prevent and suppress terrorism, and to prevent any form of financing of terrorism, in accordance with its commitments under related international resolutions, particularly Security Council resolution 1373 (2001). Bahrain has also ratified the Arab Convention for the Suppression of Terrorism under Decree Law No. 15/1998.

The Convention, which contains 42 articles, divided into four sections, addresses: the definition of terrorism and terrorist acts; measures to prevent and suppress terrorist crimes; avenues for Arab security cooperation (exchange of information, assistance, investigation, arrest of suspects or convicted persons); judicial cooperation measures for extradition and judicial orders; legal and judicial assistance; seizure and release of goods and assets linked to the offence or resulting from their seizure; exchange of evidence; and measures for the protection of witnesses and experts.

Under article 2, Bahrain, as a State Party, is obliged to prevent its territory being used to plan, organize or perpetrate terrorist crimes, to conspire to do so or to participate therein. It must prevent the infiltration of terrorist elements and their establishment in its territory, whether individually or collectively, and must prevent their being given refuge, shelter or financing or their using Bahrain's territory to cross to other States. It must also put in place effective control procedures at points of access to the country and on its borders to monitor traffic, check passengers and verify the validity of their identity and travel documents, in order to prevent, thwart and control any attempted movement by terrorist elements and groups. It must also exercise security control over

the issuance of travel documents and identity cards and take protective measures to prevent their being forged or usurpation of the bearer's identity.

Annex 8 includes a copy of the aforementioned Convention, as ratified under Decree Law No. 15/1998.

4. Paragraph 4

The CTC would be grateful to know if Bahrain has addressed any of the concerns expressed in paragraph 4 of the resolution.

See the replies to questions under paragraphs 1.5, 2.1, 2.5, 2.6 and 3.5 above.

5. Other matters

Could Bahrain please provide an organizational chart of your Government's administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen by your Government as contributing to compliance with the resolution.

The country's competent authorities are taking the necessary measures to activate an integrated anti-terrorism system and to ensure due implementation of Security Council resolution 1373 (2001).

Annex 9 includes an organizational chart of the Ministry of the Interior and the Directorate-General of Immigration and Passports.

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Security Council

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Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 3 May 2002 (S/2002/524).

The Counter-Terrorism Committee has received the attached third report from Japan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27508 (E) 120303

Annex

Note verbale dated 29 January 2003 from the Permanent Representative of Japan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of Japan to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, pursuant to paragraph 6 of that resolution and in response to the latter's letter dated 30 October 2002, has the honour to transmit herewith the third report of the Government of Japan on the steps it has taken to implement the resolution (see enclosure).

Enclosure

Second additional report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

1. The Government of Japan is providing the following additional information in response to the comments/questions posed in the letter of Ambassador Jeremy Greenstock, Chairman of the Counter-Terrorism Committee, dated October 30, 2002 (S/AC.40/2002/MS/OC.174).

●Sub-paragraph 1.2

□*Effective implementation of paragraph 1 of the Resolution requires that the legal obligation to report suspicious transactions to which banks and financial institutions are subject to should extend to all professions engaged in financial transactions (such as lawyers and accountants), and that they should all be subjected to penalties for non-compliance in order to enable the effective prevention of the financing of terrorism. Could Japan please comment on the action it intends to take in this regard, particularly in the context of the reply given in the supplementary report to sub-paragraph 1(a) ("...although no penalty will be imposed.").*

2. Whether the obligation of suspicious transactions reporting (STR) should be imposed on attorneys, certified public accountants and other professions is currently under discussion in the course of the current review of Financial Action Task Force (FATF) Forty Recommendations.

3. However, in the case of attorneys, as it is their right and duty to maintain confidentiality of any fact they learn in the performance of their duties as lawyers, imposing on them an obligation to report suspicious financial transactions to government authorities and a penalty for non-compliance would cause serious problems, including damage to reliable, trusting relation between lawyer and client.

●Sub-paragraph 1.3

□*Effective implementation of this paragraph also requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources*

collected by non-profit organizations (eg religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for financing of terrorism. Please explain whether such provisions or measures are in place in Japan and, if not, how Japan proposes to monitor the use of funds etc by non-profit organizations.

4. Under the provision of Paragraph 1 of Article 41 of "The Law to Promote Certain Non-profit Activities" (hereinafter referred to as "the Non-profit Activities Law"), if a competent authority has an appropriate reason to suspect that a corporation that conducts certain non-profit activities has violated domestic laws and regulations, administrative orders based on the domestic laws and regulations or articles of incorporation of the corporation, the authority may ask the corporation to submit a report on its activities or finances, and it may perform an on-the-spot inspection of the offices and other facilities of the corporation and inspect the activities, properties, books, documents or other objects of the corporation.

5. Please note that Paragraph 2 of Article 2 of the Non-profit Activities Law stipulates that the term "corporation that conducts certain non-profit activities" refers to any organization whose main objective is the performance of non-profit activities, which satisfies both 1 and 2 noted below, and which is incorporated in accordance with the provisions of the Non-profit Activities Law.

1. Organizations that fulfill both of the following criteria and do not aim to make a profit

a) Organizations that do not attach unjust requirements to gaining or losing membership status

b) Organizations at which one-third or fewer of all officers receive remuneration

2. Organizations whose activities meet the following conditions:

a) The main purpose of the activities is not the spread of religious doctrine, the performance of religious services or rituals, or preaching

b) The main purpose of the activities is not the promotion or support of or opposition to political principles

c) The purpose of the activities is not the recommendation or support of or opposition to a candidate for a certain public office (including a person who

aims to be a candidate for said office), a public official, or a political party.

6. Further, please note that Paragraph 1 of Article 11 of the Non-profit Activities Law stipulates that the following particulars shall be stated in the "articles of incorporation" of "corporation that conducts certain non-profit activities":

1. The object;
2. The name;
3. The type of certain non-profit activities and the type of projects regarding the said activities;
4. The seat of the principal office and seats of other offices;
5. Provisions as to the acquisition and loss of qualifications for membership;
6. Provisions concerning directors;
7. Provisions concerning meetings;
8. Provisions concerning its finances;
9. Provisions concerning its accounts;
10. Provisions as to types and other particulars of its profit activities in case the corporation conducts profit activities;
11. Provisions concerning its termination;
12. Provisions concerning alteration of its articles of incorporation;
13. The manner in which the corporation is to give its public notices;

●Sub-paragraph 1.4

□*According to the supplementary report (paragraph 9), Japan can "block assets of non-resident persons" and "restrict payments from Japan to foreign countries or payments between residents and non-residents". Please outline the basis and procedures for blocking the transfer of funds and other financial assets or economic resources between resident natural or legal persons.*

7. In June 2002, the "Act on Punishment of Financing to Offences of Public Intimidation" (hereinafter referred to as "the Act") was enacted as a measure to implement the International Convention for the Suppression of the Financing of Terrorism. Under this Act, financing of terrorism was criminalized and included in the list of predicate offences in the Anti-Organized Crime Law.

8. It became possible thereafter to regard funds collected or provided in order to carry out terrorism acts as crime proceeds, and to secure the funds for confiscation and collection of equivalent value. Financial institutions are also required by the Anti-Organized Crime Law to report to the Japanese Financial Intelligence Office (JAFIO) transactions that they suspect are related to financing of terrorism. The JAFIO classifies and analyzes the information on the reported suspicious transactions, and provides law enforcement authorities with information relevant to their investigation.

9. In this regard, the Government of Japan can take necessary measures to secure funds related to financing of terrorism transferred between resident natural or legal persons.

●Sub-paragraph 1.5

□ *"The Act Regarding the Control of Organizations Which Committed Indiscriminate Mass Murder" (Law No. 147 of 1999) and the "Subversive Activities Prevention Act" (Law No. 240 of 1952) might not be sufficient to effectively implement the obligation to suppress the recruitment of members of terrorist groups set forth in sub-paragraph 2 (a) of the Resolution for the following reasons, in particular:*

- *The obligation in paragraph 2(a) is unconditional; it is therefore irrelevant whether the groups in question have already committed terrorist acts in the past.*

- *The term "terrorist group" is not identical either with the term" organization of which officials or members had carried out indiscriminate mass murder" or with the term "organization which shall have carried out any terroristic subversive activity" as defined by Japanese law.*

- *As stated in the supplementary report, the purpose of the two above mentioned Acts "is the securing of public safety in Japan, and these Acts are not directly applicable to terrorist groups and terrorists abroad". However, the obligation under the Resolution to suppress the recruitment of members of terrorist groups also applies to terrorist*

groups operating outside Japan.

Effective implementation of this sub-paragraph requires that provisions specifically criminalising the recruitment of members of terrorist groups are in place. Please could Japan comment on the action it intends to take in this regard.

10. The Chairman of the Counter-Terrorism Committee has pointed out that the Subversive Activities Prevention Act and the Act Regarding the Control of Organizations Which Committed Indiscriminate Mass Murder might not be sufficient to effectively implement the obligation to suppress the recruitment of members of terrorist groups set forth in sub-paragraph 2 (a) of United Nations Security Council Resolution (UNSCR) 1373. The Chairman provided the following three reasons:

first, the obligation in paragraph 2 (a) is unconditional; it is therefore irrelevant whether the groups in question have already committed terrorist acts in the past;

second, the term "terrorist groups" used in UNSCR 1373 is different from *"organization which shall have carried out any terroristic subversive activity,"* as defined in the Subversive Activities Prevention Act, or *"organization of which officials or members have carried out indiscriminate mass murder,"* as defined in the Act Regarding the Control of Organizations Which Committed Indiscriminate Mass Murder;

third, the purpose of the two above mentioned Acts *"is the securing of public safety in Japan, and these Acts are not directly applicable to terrorist groups and terrorists abroad"*; however, the obligation under the Resolution to suppress the recruitment of members of terrorist groups also applies to terrorist groups operating outside Japan.

11. Regarding the Chairman's first and second comments above mentioned, the Government of Japan considers it possible to implement subparagraph 2 (a) of the Resolution in an appropriate manner by applying the two above mentioned Acts, because most terrorist groups have carried out indiscriminate mass murder in the past, and are likely to be recognized as "groups having carried out any terrorist subversive activities" or "groups having committed indiscriminate mass murder" "as their group activities."

12. Moreover, as Japan reported before, concerning criminalization of recruitment of members of terrorist groups, such recruitment activities by groups that are considered as "terrorist organizations" under these acts are banned, and violations of the ban are punished under these acts.

13. Regarding the third comment of the Chairman, it is true that the two above mentioned Acts may not cover all terrorist groups due to the specific purpose of these Acts.

14. Under the current legal system, the Government of Japan intends to fulfill its obligation of suppressing recruitment of members of terrorist groups and terrorists abroad by taking the following measures:

(1) Not issuing visas to members of terrorist groups;

(2) Rejecting requests for landing permission from members of terrorist groups by application of provisions of the Immigration Control and Refugee Recognition Act including Article 5, which prescribes grounds for rejection of landing such as infringement of national interest and security.

15. Furthermore, considerations by the relevant governmental authorities are under way to find possible and effective measures to further regulate terrorist groups' recruitment activities.

●Sub-paragraph 1.6

□ *Please outline the competencies of the Counter-terrorism Cooperation Division which, according to the website of the Ministry of Foreign Affairs of Japan (http://www.mofa.go.jp/policy/terrorism/division.html), was established in order to deal "with the overall coordination of all activities relating to counter-terrorism policy", for the implementation of the Resolution.*

16. International Counter-Terrorism Cooperation Division was established in the Ministry of Foreign Affairs (hereinafter referred to as "the Ministry") on 12 December 2001. As CTC has pointed out, the Division deals with the overall coordination of all

activities relating to counter-terrorism policy in the Ministry, including policy planning and cooperation on counter-terrorism in the UN framework.

17. The International Counter-Terrorism Cooperation Division works with other government authorities to ensure that the requirements of UNSCR 1373 are appropriately implemented.

18. Since the UN Policy Division is in charge of UN issues in the Ministry, this Division compiles and submits Japanese reports concerning the implementation of UNSCR 1373. In the course of drafting these reports, the UN Policy Division works closely with the International Counter-Terrorism Cooperation Division.

●Sub-paragraph 1.7

□ *Please outline the legal provision that criminalises the use of the Japanese territory for the purpose of financing, planning, facilitating or committing terrorist acts against other states or their citizens. Effective implementation of sub-paragraph 2(d) and (e) of the Resolution requires that such a provision should be incorporated in the penal law of Japan.*

19. Japan has already ratified and implemented all of the 12 anti-terrorism conventions, and terrorist acts prescribed under these conventions have already been criminalized under Japanese laws.

20. Therefore, a person who finances, plans, facilitates, or commits terrorist acts inside the territory of Japan shall be punished under the jurisdiction of Japan, even if the targets of such terrorist acts are other states or their citizens.

21. For example, a person who finances terrorist acts inside the territory of Japan shall be punished under Articles 2 and 3 of the Act on Punishment of Financing to Offences of Public Intimidation, even if the targets of such terrorist acts are other states or their citizens.

●Sub-paragraph 1.8

☐ *In cases to which Article 4-2 of the Penal Code is not applicable, will Japan extradite foreigners and stateless persons who have committed one of the acts listed in sub-paragraph 2 (e) of the Resolution outside its territory, but who are currently in Japan in order to ensure that those persons are brought to justice as required by this sub-paragraph?*

22. Japan can extradite to a requesting state in accordance with the Law of Extradition, persons, including foreigners and stateless persons, who have committed terrorist acts prescribed under the relevant anti-terrorism conventions outside Japanese territory.

On the other hand, Article 4-2 of the Penal Code embodies the principle of "auto dedere, auto judicare," and it enables Japan to apply its Penal Code to those, including foreigners and stateless persons, who have committed such terrorist acts outside Japanese territory, but who are currently in Japan in cases where Japan does not extradite them.

Thus, through the combination of these measures, Japan can ensure that those persons are brought to justice either by extradition or by application of its own Penal Code as requested in this Resolution.